

EXHIBIT E

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL RIVERA,

4

PLAINTIFF,

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6

-against-

Case No.:
16cv7552

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HOME DEPOT USA, INC.,

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DEFENDANT,

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HOME DEPOT USA, INC.,

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THIRD-PARTY PLAINTIFF,

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-against-

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BRYAN'S HOME IMPROVEMENT, CORP.,

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THIRD-PARTY DEFENDANT.

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DATE: October 10, 2017

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TIME: 10:35 A.M.

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(DEPOSITION OF JORGE PALACIOS.)

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DATE: October 10, 2017

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TIME: 10:35 A.M.

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DEPOSITION of the Defendant and
Third-Party Plaintiff, HOME DEPOT USA,
INC., by a witness, JORGE PALACIOS, taken
by the respective parties, pursuant to a
Court Order and to the Federal Rules of
Civil Procedure, held at the offices of
D'Amato & Lynch, LLP, Two World Financial
Center, 225 Liberty Street, New York,
New York 10281, before Karen R. Aniboli,
a Notary Public of the State of New York.

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2 A P P E A R A N C E S:

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4 GINARTE GALLARDO GONZALEZ WINOGRAD, LLP
Attorneys for the Plaintiff
5 DANIEL RIVERA
225 Broadway, 13th Floor
6 New York, New York 10007
BY: MICHAEL L. EDELMAN, ESQ.

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8

9 D'AMATO & LYNCH, LLP
Attorneys for the Defendant,
Third-Party Plaintiff
10 HOME DEPOT USA, INC.
Two World Financial Center
11 225 Liberty Street
New York, New York 10281
12 BY: HENRY C. DIEUDONNE, JR., ESQ.
File #: 930-83092

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14

15 CONNORS & CONNORS, PC
Attorneys for the Third-Party Defendant
BRYAN'S HOME IMPROVEMENT, CORP.
16 766 Castleton Avenue
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17 BY: MICHAEL P. DeCARLO, ESQ.
File #: SIF26263

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2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and
6 between the counsel for the respective
7 parties herein that the sealing, filing and
8 certification of the within deposition be
9 waived; that the original of the deposition
10 may be signed and sworn to by the witness
11 before anyone authorized to administer an
12 oath, with the same effect as if signed
13 before a Judge of the Court; that an
14 unsigned copy of the deposition may be used
15 with the same force and effect as if signed
16 by the witness, 30 days after service of
17 the original & 1 copy of same upon counsel
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that
21 all objections except as to form, are
22 reserved to the time of trial.

23

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1 PALACIOS

2 J O R G E P A L A C I O S, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. EDELMAN:

8 Q. Please state your name for the
9 record.

10 A. Jorge Palacios.

11 Q. What is your address?

12 A. 40 Oser Avenue, Suite 17,
13 Hauppauge, New York 11788.

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. My name is Mike Edelman. I'm
17 an attorney representing the Plaintiff in
18 connection with a lawsuit that was
19 commenced. It's a Federal Court case.
20 Today is a deposition.

21 Your name is Jorge Palacios?

22 A. Yes.

23 Q. Do you ever go by any other
24 names?

25 A. No.

1 PALACIOS

2 Q. What is your date of birth?

3 A. 1/22/76.

4 Q. Have you ever been convicted of
5 or pled guilty to any crimes?

6 A. No.

7 Q. Sir, have you been deposed
8 before in this kind of a setting for a
9 deposition?

10 A. Yes.

11 Q. So you're familiar with the
12 procedure?

13 A. Yes.

14 Q. How many times have you been
15 deposed?

16 MR. DIEUDONNE: Please, note my
17 objection. You can answer.

18 A. Once.

19 Q. When was that?

20 MR. DIEUDONNE: Please, again,
21 note my objection. You can answer.

22 A. Probably I'll say three years
23 ago.

24 Q. Was that in your capacity of
25 employment or was that personal or

1 PALACIOS

2 something else?

3 A. Capacity of employment.

4 Q. With which company?

5 A. The Home Depot.

6 Q. You probably received
7 instructions three years ago, the same, I
8 will give you another set of instructions,
9 I guarantee they will be the same.

10 We have a court reporter
11 transcribing a record of testimony, try to
12 keep your responses to my questions verbal,
13 only because she cannot record a hand
14 gesture, movements like that. If you want
15 me to rephrase or clarify a question I'll
16 be happy to do so. For any reason you need
17 to take a break that's fine, I just ask
18 that no question is pending at the moment.
19 Please, don't give a blind guess, if you
20 are able to comfortably provide an
21 approximation of measurement, distance,
22 that's fine, just don't give a blind guess
23 if you don't know the answer.

24 You understood the terms of the
25 oath?

1 PALACIOS

2 A. Yes.

3 Q. Any questions amongst us before
4 we begin?

5 A. No questions.

6 Q. All right. Sir, you provided
7 an address of 40 Oser Avenue, Suite 17,
8 Hauppauge, New York?

9 A. Yes.

10 Q. What is there?

11 A. That's our central office for
12 the Home Depot exterior installations for
13 the Long Island branch.

14 Q. One last instruction. You may
15 anticipate what I'm asking you, just let me
16 get the full question out for the reporter.

17 So, could you give me your
18 educational background?

19 A. Educational background as far
20 as?

21 Q. Any schooling you may have
22 done?

23 A. High school and then started
24 working pretty much in the construction
25 field.

1 PALACIOS

2 Q. Did you finish high school?

3 A. No.

4 Q. What year?

5 A. 11th.

6 Q. Do you hold any certifications
7 in construction or any other fields?

8 A. Just basic OSHA certification,
9 EPA, lead certifications.

10 Q. Is the OSHA from a course that
11 you took?

12 A. It's from a course, yes.

13 Q. Do you remember whether it was
14 five or ten --

15 A. It was a ten-hour course.

16 Q. When did you complete the
17 course?

18 A. I'll have to say about seven
19 years ago.

20 Q. Did you receive a certificate
21 or card?

22 A. Both.

23 Q. Do you know if the certificate
24 is still valid?

25 A. That I don't know.

1 PALACIOS

2 Q. Do you know if the card is
3 still valid?

4 A. I don't think so, no.

5 Q. Have you had any refresher
6 courses in the last seven years since then?

7 A. No, not as of yet.

8 Q. When did you obtain the EPA in
9 lead certifications?

10 A. It was just renewed about two
11 years ago.

12 Q. Can you describe what the EPA
13 certification is about?

14 A. It's regarding lead
15 renovations, safety and working with lead.

16 Q. Can you describe your work
17 history?

18 A. With the Home Depot?

19 Q. I'm sorry. Starting off when
20 you finished high school and you started
21 working.

22 A. Correct. So, I worked with the
23 Home Depot back in 1998, started with Home
24 Depot at the store level, remained with the
25 Home Depot for, for about three years.

1 PALACIOS

2 Then I moved on and worked with a home
3 builder for about ten years. And with the
4 crash of the home building industry
5 actually came back to the Home Depot to
6 work for their exterior division.

7 Q. When did you start up with the
8 exterior division?

9 A. It was about seven years ago.
10 I don't recall what the year was.

11 Q. Approximately, 2010?

12 A. '10 around.

13 Q. Did you go for the OSHA
14 training after starting up with the
15 exterior division?

16 A. Yes.

17 Q. Did they require you to do so?

18 A. Yes.

19 Q. And have you been based at the
20 office in Hauppauge, Long Island or
21 elsewhere?

22 A. We're actually assigned
23 separate territories. So my territory is
24 the Bronx and Westchester locations.

25 Q. I know we're conducting this

1 PALACIOS

2 deposition in English, do you speak any
3 other languages?

4 A. Spanish.

5 Q. Are you fluent in Spanish?

6 A. Yes.

7 Q. Any other languages?

8 A. No.

9 Q. When you worked in the home
10 building business you mentioned --

11 A. Yes.

12 Q. -- were you performing actual
13 construction work?

14 A. No. I was actually a service
15 manager for a service department.

16 Q. Where was that?

17 A. I'm sorry?

18 Q. Which company?

19 A. WCI Communities.

20 Q. What were your job duties
21 there?

22 A. Service manager in the warranty
23 department.

24 Q. What did that work involve?

25 A. It involved any repairs

1 PALACIOS

2 reported by the clients so.

3 Q. Was that in a territory?

4 A. That was, yes, that was in
5 service territories throughout.

6 Q. All throughout?

7 A. Yes. Throughout New York and
8 New Jersey.

9 Q. And that was all residential?

10 A. All residential homes, yes.

11 Q. What is your current title?

12 A. Installation service manager.

13 Q. How long has that been your
14 title?

15 A. For about I'll say three years
16 now.

17 Q. What was your title prior to
18 that?

19 A. Field supervisor.

20 Q. How long were you that?

21 A. About two years.

22 Q. Prior to that?

23 A. Field inspector.

24 Q. And that was about two years?

25 A. Two years.

1 PALACIOS

2 Q. What were your job duties as
3 field inspector?

4 A. Inspection of jobs,
5 coordinating jobs, recruitment for
6 installers and measurements.

7 Q. What do you mean by
8 measurements?

9 A. Measuring whatever product was
10 sold such as roofs, sidings, windows,
11 doors.

12 Q. Were those manufactured by Home
13 Depot or outside?

14 A. The materials are manufactured
15 outside of Home Depot.

16 Q. And then Home Depot puts them
17 together?

18 A. Home Depot then -- we'll order
19 materials and then installers will put them
20 together.

21 Q. Your measurements are to make
22 sure that the materials are the proper size
23 and shape?

24 A. That's correct, yes.

25 Q. What were your duties as a

1 PALACIOS

2 field supervisor?

3 A. To supervise the field
4 inspectors and to assist in whatever any
5 measurements were required to be done,
6 making sure that all of the install revenue
7 was reported back on a weekly basis. Also
8 responsible for recruitment of installers.

9 Q. Currently, sir, I believe you
10 are a field inspector?

11 A. Currently, now, installation
12 service manager.

13 Q. Okay. Sorry. You were
14 promoted.

15 Now you are an installation
16 service manager?

17 A. That's correct.

18 Q. What are your duties as
19 installation service manager?

20 A. Recruitment of installers,
21 responsible for install revenue.

22 Q. Anything else?

23 A. And any additional duties that
24 are given by the branch manager.

25 Q. Who is the branch manager?

1 PALACIOS

2 A. Randy Singleton (phonetic).

3 Q. And Home Depot has an office in
4 Hauppauge?

5 A. Yes.

6 Q. How often are you in the
7 Hauppauge office?

8 A. Every other day.

9 Q. Where are you the other days?

10 A. I'm sorry?

11 Q. Where are you the other days
12 when you are not in the Hauppauge office?

13 A. I'm out in the field.

14 Q. When you say out in the field,
15 at different projects --

16 A. Yes, different projects
17 contracted to be done.

18 Q. In preparation for appearing
19 today, did you review any paperwork or
20 documents?

21 A. No.

22 Q. Aside from speaking to your
23 attorney, have you discussed the matter of
24 this action with anyone else?

25 A. No.

1 PALACIOS

2 Q. Home Depot exterior
3 installation, what kind of installation do
4 they perform?

5 A. They offer roofing, gutters,
6 windows, attic insulation, siding and
7 doors.

8 Q. Are these exclusively for
9 residential homes or for also commercial
10 properties, both or something else?

11 A. Both. More for residential.

12 Q. Does Home Depot have devoted
13 like sales teams or individuals who go out
14 to sell to clients you service?

15 A. Yes, there is a sales force.

16 Q. When generally do you first
17 learn of a project?

18 A. Shortly after it is sold,
19 contracted.

20 Q. How is that communicated to
21 you?

22 A. Via e-mail.

23 Q. Generally, what kind of content
24 is in the e-mail that you get?

25 A. It states that the project is

1 PALACIOS

2 actually ready for permit procedures and
3 measurements.

4 Q. What does the permit procedure
5 entail?

6 A. We have a permit expeditor who
7 actually deals with the towns directly and
8 the officers in the towns, and they
9 actually file for a permit for the
10 property.

11 Q. And the permit is to authorize
12 the installation process?

13 A. That's correct. And also to
14 see exactly what is going to be done based
15 on the contract.

16 Q. And then the message to you
17 indicates it's ready for measurements?

18 A. Correct.

19 Q. Then what do you do?

20 A. Then we'll contact the
21 customer, advise them, introduce ourselves
22 and advise them that we're -- want to make
23 an appointment to actually come by and
24 retake the measurements from the sales
25 consultant and to go over any questions and

1 PALACIOS

2 scope of work with the customer.

3 Q. When you have these discussions
4 with customers and take the measurements,
5 that's actually in the field at the
6 properties with the installation work?

7 A. That's correct.

8 Q. Generally, did you go on your
9 own to these projects?

10 A. That's correct, yes.

11 Q. Are you ever accompanied by
12 anyone else from the company for these
13 projects?

14 A. At times. If there is any,
15 any --

16 Q. And who, generally, who
17 generally have you gone with?

18 A. The actual sales consultant or
19 an installer.

20 Q. In those instances when you
21 refer to the installer, is that someone
22 from Home Depot or someone from a different
23 contractor?

24 A. It's a different contractor,
25 subcontractor.

1 PALACIOS

2 Q. Do you know who from Home Depot
3 enters into the agreements with the
4 customers, the client, for this work?

5 A. There is various sales
6 consultants, they are assigned a certain
7 territory and they are the ones that go
8 into contract with the customers.

9 Q. And does Home Depot exterior
10 installation also have an advertisement
11 department and marketing department?

12 A. They do.

13 Q. And that's advertising the
14 different installation services that you
15 mentioned?

16 A. That's correct.

17 Q. Do you personally have any role
18 in the negotiations of agreement with the
19 customers, clients?

20 A. Only if the job presents itself
21 not so correctly.

22 Q. Can you describe an instance of
23 that?

24 A. For example, if, if we go in
25 there and take measurements and read the

1 PALACIOS

2 contract and there is additional work that
3 needs to be done and the customer isn't
4 expecting that, then we'll explain to them
5 it's not listed on the contract. And we'll
6 then contact the sales consultant and bring
7 them in and so we can make an amendment to
8 the contract if the customer is willing to
9 move forward with that.

10 Q. And you recall this happened
11 while you've been at the job at Home Depot?

12 A. Yes.

13 Q. Do you know how many times?

14 A. About every day. There is a
15 lot of discrepancies.

16 Q. I'm sorry. Before you take
17 your measurements is there anyone else that
18 takes a preliminary measurement?

19 A. That's correct. The sales
20 consultant.

21 Q. The sales consultant is out in
22 the field taking the measurements and in
23 the process an agreement is drawn up, and
24 then you find out about it and take a new
25 measurement?

1 PALACIOS

2 A. That's correct.

3 Q. When the company will perform a
4 roofing installation, could you describe
5 how you do the measurements?

6 A. So, when we arrive to the job
7 site and we tend to see how many stories
8 the home is, the neighboring houses to the
9 left and right, and what is obviously in
10 front of the house. We'll then do length
11 times width, and we'll use multipliers in
12 order to determine the pitch and add a
13 waste factor multiplier. So we take the
14 length and use a pitch multiplier and a
15 waste factor multiplier and that will give
16 us what the area should be.

17 Q. Were you working off of plans?

18 A. No, no plans. Just an eagle
19 view drawing, if you would.

20 Q. Who generates the drawing?

21 A. Sales consultants and then
22 there is one that's revised by myself.

23 Q. Is there an eagle view drawing
24 prepared for each property that Home Depot
25 performs an installation?

1 PALACIOS

2 A. Yes.

3 Q. Does Home Depot generally
4 perform the installation of the services
5 that you mentioned or do they subcontract
6 work out to other entities?

7 A. They subcontract to other
8 entities.

9 Q. Are you involved in the bidding
10 process of those subcontractors?

11 A. No. Only when it's a
12 commercial application.

13 Q. What do you mean by that?

14 A. Generally, the -- you'll have
15 to put everything together as far as the
16 scope of work is concerned and materials
17 will be used on a commercial application,
18 and then also with input from the
19 subcontractor as to how much labors is
20 going to be involved, the difficulty with
21 relating to height or just getting to, you
22 know, set up or getting to the actual
23 property itself.

24 Q. Is there a list of contractors
25 that Home Depot generally uses for the

1 PALACIOS

2 residential home installations?

3 A. Yes, there is. And it's
4 actually broken down by territories and by
5 licensing.

6 Q. When you say territories, the
7 township or county or something else?

8 A. It would be, yeah, counties.

9 Q. All of the contractors that
10 Home Depot retains for these installations,
11 are they licensed contractors?

12 A. Yes.

13 Q. Within the State of New York?

14 A. Yes. And with other counties.

15 Q. Do you know if Home Depot also
16 has a contractor's license with the State
17 of New York?

18 A. Yes.

19 Q. How many contractors does Home
20 Depot retain in Westchester County to
21 perform such home installations currently?

22 A. Currently, I'll say about five.

23 Q. How many about back in August
24 of 2015?

25 A. I'll have to say about eight.

1 PALACIOS

2 Q. Did you have a, back in and
3 around August 2015, did you have any role
4 in deciding the subcontractors to work at
5 these projects?

6 A. Yes.

7 Q. Can you describe your
8 involvement in that?

9 A. The way that it's determined is
10 basically where the home is actually
11 located and how close or nearby the
12 subcontract actually resides.

13 Q. So, in addition to the
14 proximity, how are the subcontractors
15 evaluated to see if they could work for you
16 guys back in 2015?

17 A. That they are, their licensing
18 and -- licensing is checked and we ask them
19 for several different addresses of projects
20 that they have actually worked for or have
21 done in the past so we can go and evaluate
22 their work.

23 Q. Then did you participate in the
24 approval process for those subs?

25 A. That's correct.

1 PALACIOS

2 Q. And was Bryan's Home
3 Improvement one of the subcontractors that
4 you approved to perform work in 2015?

5 A. Yes.

6 Q. I know you mentioned before
7 some different services that Home Depot
8 provides --

9 A. Yes.

10 Q. -- roofing, windows, attic,
11 gutters, things like that?

12 A. Yes.

13 Q. Did Home Depot retain Bryan's
14 Home Improvement to perform all the
15 different services on different occasions
16 or just some of them or not others, if you
17 remember?

18 A. He was on board for roofing,
19 installation -- I'm sorry, roofing, gutters
20 and siding.

21 Q. Is Home Depot still retaining
22 Bryan's Home Improvement to work on
23 projects?

24 A. No.

25 Q. Do you know when they stopped

1 PALACIOS

2 retaining them?

3 A. I will have to say six months
4 after this, this last project.

5 Q. Which last project?

6 A. The 2015 project.

7 Q. The one where there was an
8 accident involved in?

9 A. Correct, yes.

10 Q. After working at the
11 residential project where the accident
12 occurred, did Bryan's Home Improvement
13 continue to work for Home Depot and on
14 other houses before that six-month period
15 afterward?

16 A. Before the six-month period?

17 Q. After the accident happened,
18 did they continue to work on other homes
19 for six months?

20 A. Yes. They had several jobs.

21 Q. Do you have an understanding as
22 to why the relationship ended?

23 MR. DIEUDONNE: Please, note my
24 objection. You can answer.

25 A. I would have to say I heard it

1 PALACIOS

2 was from the -- this big problem with this
3 accident that occurred.

4 Q. Are you familiar with a
5 residential project at a home located at 58
6 Cook Avenue in Yonkers, New York?

7 A. Yes.

8 Q. Do you remember, approximately,
9 when that project took place?

10 A. I know it was around the
11 summertime, mid summer.

12 Q. Of 2015?

13 A. Yes.

14 Q. And at the time were you an
15 installation service manager?

16 A. Yes.

17 Q. And Yonkers was part of your
18 territory, correct?

19 A. Yes.

20 Q. At the time did you have a
21 direct person you reported to like a
22 supervisor?

23 A. Yes.

24 Q. Who was that?

25 A. Randy Singleton.

1 PALACIOS

2 Q. What was his title again?

3 A. Branch installation manager.

4 Q. What was your first involvement
5 with that project?

6 A. Once it was actually contracted
7 and sold I went out and conducted the
8 second measurement on the home, placed the
9 materials on order and then waited for
10 permits to be approved.

11 Q. And it would have been your
12 understanding it was Home Depot's sales
13 team that would of made this initial
14 arrangement with the customer in this case?

15 A. That's correct, yes.

16 Q. It's your understanding the
17 customer was the owner of the property at
18 Yonkers?

19 A. Yes.

20 Q. What was the scope of work for
21 that project?

22 A. Scope of work was to remove all
23 of the roofing layers and install the ice
24 and water leak barrier, 30-pound felt
25 paper, install a ridge vent and any other

1 PALACIOS

2 ventilation that the roof required.

3 Cleaning up of all debris and removal from
4 the job site.

5 MR. DeCARLO: Can you read that
6 back?

7 (Whereupon, the referred to
8 answer was read back by the
9 Reporter.)

10 Q. To your understanding, were
11 those the services and work that was
12 purchased by the homeowner?

13 A. Yes.

14 Q. Do you know the homeowner?

15 A. Personally, no.

16 Q. By name?

17 A. I don't recall the name.

18 Q. After the sale is made a
19 contract would have been generated with the
20 homeowner and Home Depot?

21 A. Yes.

22 Q. Is that contract given to you?

23 A. There was a copy that was
24 furnished when the measurements were, when
25 it was advised that the job was ready for

1 PALACIOS

2 the measurement.

3 Q. And then someone from the sales
4 team reached out to you to let you know it
5 was your turn?

6 A. No.

7 Q. How did you first start working
8 on this?

9 A. We, we receive an e-mail that
10 informs us that the job is ready for
11 measurement and permit processing.

12 Q. And you received an e-mail for
13 this home?

14 A. Yes.

15 Q. Who sent that e-mail, do you
16 know?

17 A. It's a generated e-mail.

18 Q. Is that a corporate database or
19 something else?

20 A. Yes. The sales consultant once
21 they generate a contract it is then entered
22 by a data processing in our corporate
23 office, and that automatically then
24 triggers an e-mail to go out.

25 Q. For the servicing that you

PALACIOS

1
2 mentioned for this home, how long is it
3 supposed to take to accomplish all of that
4 work?

5 A. Between three to four business
6 days.

7 Q. Three to four?

8 A. Three to four business days.

9 Q. You went out and took the
10 measurements for this property?

11 A. Yes.

12 Q. Did anyone accompany you?

13 A. No.

14 Q. I know you talked a little bit
15 before, had you taken the measurement for
16 this specific home?

17 A. Length and width. Then we use
18 a pitch multiplier and a waste factor
19 multiplier and that gives you the square
20 area of the roof.

21 Q. Was an eagle eye drawing
22 prepared for the home?

23 A. There was a hand drawing done,
24 yes.

25 Q. Was that by you or the sales

1 PALACIOS

2 consultant or someone else?

3 A. Both.

4 Q. So there were two separate
5 drawings?

6 A. Yes.

7 Q. Do you remember making any
8 modifications to the initial drawing that
9 the sales consultant had for the home?

10 A. That I don't recall.

11 Q. How much time elapsed between
12 the time when you conducted the
13 measurements to when the work began?

14 A. I'll have to say two weeks.

15 Q. After you performed the
16 measurements, is that when you did your
17 drawing?

18 A. Say again.

19 Q. After you did measurements, is
20 that when you prepared your drawings?

21 A. Yes.

22 Q. Who was that drawing circulated
23 to?

24 A. The drawing is just made for
25 file purposes.

1 PALACIOS

2 Q. Then who at Home Depot procured
3 the permit?

4 A. We have a permit expeditor.

5 Q. Do you know who that is?

6 A. The name of the company is Go
7 Permit.

8 Q. Did you contact them to get the
9 permit?

10 A. No. They are actually notified
11 as well once the data entry is entered and
12 done.

13 Q. Do you know anyone there at
14 that company who you dealt with --

15 A. Yes.

16 Q. -- for this?

17 A. Yes.

18 Q. Who was that?

19 A. His name is Scott.

20 Q. Last name?

21 A. I don't remember his last name.

22 Q. Did Scott deliver the permit
23 for you for this home?

24 A. Yes.

25 Q. Was it a permit, what was the

1 PALACIOS

2 permit for, if you know?

3 A. The permit is a -- to clarify
4 the scope of work that's going to be
5 conducted on the home.

6 Q. Was it only one permit required
7 for this home?

8 A. Yes.

9 Q. And the permit expeditor got
10 the permit cleared through the township in
11 order to do the job on the home?

12 A. Correct, yes.

13 Q. And that was, was it for
14 roofing work or did it specify each
15 specific service?

16 A. For just the roofing work.

17 Q. What was next in the process,
18 did you then go try to retain a contractor
19 to work on this --

20 A. We --

21 Q. -- or something else?

22 A. After the permits are approved
23 and, and the permit company advises that
24 they obtained the permit, they are in
25 contact with the schedulers who actually

1 PALACIOS

2 work out of the corporate office, and they
3 actually do all of the scheduling for the
4 jobs.

5 Q. Where is the corporate office
6 based, in Hauppauge?

7 A. In Atlanta, Georgia.

8 Q. What is the role of the
9 schedulers?

10 A. They, they go over the scope of
11 work, briefly go over the scope of work,
12 and they allocate an installer in the
13 nearby area, and they coordinate the
14 project with the customer and the
15 installer. They also then place the order,
16 the confirmation for the order, for the
17 materials actually to be shipped to the
18 home.

19 Q. And the new roofing materials
20 for this home in Yonkers were Home Depot
21 products, is that correct?

22 A. Correct, yes.

23 Q. Do you know where that order
24 was shipped from of the roofing materials?

25 A. I don't know. I don't remember

1 PALACIOS

2 what supply house. No.

3 Q. So for this home in Yonkers,
4 Home Depot scheduling department contacted
5 Bryan's Home Improvement to perform the
6 work?

7 A. That's correct.

8 Q. Do you remember any of the
9 individuals working in the scheduling
10 department at that time?

11 A. No, I don't know.

12 Q. To your understanding, was
13 Bryan's Home Improvement contacted for this
14 particular home because of the proximity,
15 where they were located in relation to the
16 home?

17 A. Yes.

18 Q. Was the scheduling done a few
19 days in advance of this home or a week or
20 something else?

21 A. It's normally done either a few
22 days or a week or so in advance.

23 Q. On the first day that this
24 project was going to be begin, had Home
25 Depot already delivered the roofing

PALACIOS

1

2 materials?

3

A. Yes. The same morning.

4

Q. Were you present at the site

5

when the roofing materials were delivered?

6

A. No.

7

Q. Do you know where the materials

8

were staged?

9

A. In the front of the house on

10

the sidewalk.

11

Q. Were they exposed to the

12

elements, were they kept in a box or

13

something else?

14

A. They were on a skid and wrapped

15

with plastic.

16

Q. And they had been left there by

17

the driver for Home Depot?

18

A. The driver from the supply

19

house.

20

Q. Prior to the project, did you

21

have any discussions with anyone from

22

Bryan's Home Improvement about it?

23

A. No.

24

Q. Around that time of August of

25

2015, do you know how many different

1 PALACIOS

2 projects Home Depot was involved in in the
3 Yonkers, in the Westchester area?

4 A. In the Westchester area, no, I
5 don't recall.

6 Q. Generally, is Home Depot
7 involved in multiple projects at the same
8 time?

9 A. Yes.

10 Q. You mentioned before when you
11 are out and not in the office of Hauppauge
12 and out in the field, are you visiting each
13 of the projects that Home Depot is involved
14 in?

15 A. Yes.

16 Q. I will show you what was marked
17 Defendant's Exhibit A at a different
18 deposition, this is a photograph.

19 A. Yes.

20 Q. Do you recognize the home in
21 that photograph?

22 A. Yes.

23 Q. What do you recognize it to be?

24 A. The contracted roofing that
25 when -- that was contracted to be done.

1 PALACIOS

2 Q. Where the accident happened?

3 A. Where the accident happened,
4 yes.

5 Q. Back in and around August 2015,
6 did you know any of the individuals of
7 Bryan's Home Improvement?

8 A. Yes.

9 Q. Who did you know?

10 A. Alonzo Loja, Fidel Loja.

11 L-O-J-A.

12 Q. Anyone else?

13 A. There were a couple of other
14 guys, but by name I don't recall them, just
15 face recognize.

16 Q. Do you remember the name
17 Carlos?

18 A. There was a Carlos, yes.

19 Q. Do you remember there being
20 multiple Carloses?

21 A. No. Just one Carlos.

22 Q. Do you remember a gentleman by
23 the name of Daniel Rivera?

24 A. No, by name, no.

25 Q. Is Fidel Alonzo's son?

1 PALACIOS

2 A. Yes.

3 Q. Do you know for how many months
4 or years prior to August 2015 that Bryan's
5 Home Improvement was one of the contractors
6 for Home Depot?

7 A. I'll have to say five years
8 prior.

9 Q. Approximately, how many
10 projects a year do you think Bryan's Home
11 Improvement performed before this accident
12 for Home Depot?

13 A. If I have to put a number I'll
14 have to say at least 50 if not more.

15 Q. Approximately, 50 or more per
16 year?

17 A. Uh-huh.

18 MR. DeCARLO: 50 per year or 50
19 total?

20 THE WITNESS: 50 or more per
21 year.

22 Q. And those are approximately
23 three-day projects?

24 A. Some two, some three.

25 Q. Of the projects that they

1 PALACIOS

2 worked on previously, were some of them
3 like residential projects such as the
4 Yonkers home where this accident happened?

5 A. Yes.

6 Q. And on those prior projects,
7 did you deal with Alonzo and Fidel?

8 A. Yes.

9 Q. Were you aware of any
10 complaints made regarding the way Bryan's
11 Home Improvement performed their work
12 before this accident happened?

13 A. No.

14 Q. Had you ever yourself made any
15 complaints verbally or in writing about the
16 way that Bryan's Home Improvement did their
17 work at the project, at other projects
18 before this one?

19 A. No.

20 Q. If you don't mind, sir, looking
21 at the home in Exhibit A in front of you,
22 how would you characterize that, a
23 two-story home and a roof above that or is
24 there a different way you'd describe it?

25 A. I would describe this as a

1 PALACIOS

2 three-story home.

3 Q. Three story?

4 A. Uh-huh.

5 Q. What level was the roof that
6 was being removed and then newly installed?

7 A. The third story, main roof.

8 Q. Was the window shown in the
9 center top portion of the roof also going
10 to be repaired or replaced, if you know?

11 A. Not the window just the roof
12 around the dormer.

13 Q. And the roof material was that
14 shingles?

15 A. Yes.

16 Q. How was Bryan's Home
17 Improvement supposed to remove the
18 shingles?

19 A. So, they actually remove the
20 layers of shingle with a roofing shovel.
21 They strip it down to the bare wood and
22 remove any loose nails.

23 Q. And then what?

24 A. Once all of the nails are
25 removed then the decking it's checked for

1 PALACIOS

2 any wood rot.

3 Q. And then what?

4 A. Then they prepare for the
5 ridge. They prepare also any openings for
6 any additional ventilations or for
7 modifications for ventilation, adequate
8 ventilation.

9 Q. What is next?

10 A. Thereafter they start prepping
11 the area with the leak, ice and water
12 shield. They install the drip edge, which
13 is the perimeter flashing that goes all
14 around.

15 Q. Any other steps before they
16 start putting the new roofing materials?

17 A. Then they put in the starter
18 course. They prepare the flashing around
19 the walls of where the roof and the walls
20 meet on the dormers. The ice and shield
21 leak water barrier is installed, the felt
22 paper is installed, and then the shingle
23 roof, roofing shingle material is brought
24 upstairs, brought up to the roof.

25 Q. To access the roof area were

1 PALACIOS

2 ladders acquired?

3 A. Yes.

4 Q. Were there any scaffolds or
5 mechanical booms or any other way to get up
6 there?

7 A. No. Just ladders.

8 Q. When portions of the existing
9 roof were removed, were they deposited or
10 thrown out into the garage or dumpsters?

11 A. They are actually, they start
12 on one section of the roof and they
13 actually -- they drop it down to the
14 ground. Then they are removed from the,
15 from the ground area.

16 Q. Where in the ground are the
17 materials dropped?

18 A. Right either to the left or to
19 the right of the house and to the front of
20 the house and back as well.

21 Q. Who cleans up that debris?

22 A. The subcontractor.

23 Q. Were there any like cautionary
24 signs or ropes put around where the debris
25 would be dropped from the roof?

1 PALACIOS

2 A. No.

3 Q. Now, all of the different work
4 that you mentioned for the roofing process,
5 was that written into a purchase order or
6 contract?

7 A. No

8 Q. Do you know if Bryan's Home
9 Improvement submitted a proposal outlining
10 the work that they performed?

11 A. No.

12 Q. Do you know or they did not?

13 A. No, they don't.

14 Q. Was it your expectation that
15 they would perform all of the services and
16 work that you mentioned?

17 A. Yes.

18 Q. Would they have been paid if
19 they did not perform that work and services
20 for you?

21 A. I'm sorry?

22 Q. Would they have been paid if
23 they did not perform that work and services
24 for you?

25 A. No.

1 PALACIOS

2 Q. Were they fully paid for this
3 project, Bryan's Home Improvement?

4 A. Yes.

5 Q. When did you arrive at the
6 project?

7 MR. DIEUDONNE: Please, note my
8 objection. Initially?

9 MR. EDELMAN: Yes, initially.

10 A. About several hours after the
11 job actually started.

12 Q. Do you have a uniform when you
13 are out in the field?

14 A. Either an apron or a vest.

15 Q. That says Home Depot?

16 A. Home Depot, yes.

17 Q. When you got there, did you
18 check on the materials that were provided
19 by Home Depot?

20 A. Yes, we check the materials.

21 Q. What else?

22 A. And check in with the customer
23 to make sure that everything is going as
24 described.

25 Q. Was the customer present at the

PALACIOS

1

2 time?

3 A. Yes.

4 Q. You were there, can you
5 describe what he or she looked like?

6 A. It was a young man, I believe
7 he had glasses.

8 Q. Do you remember any discussion
9 with him?

10 A. Other than good day and, you
11 know, if they had any additional questions
12 and all, that the project was underway and
13 the only thing they asked was how long is
14 it going to take. I told them between three
15 to four days as long as the weather was
16 cooperative and we didn't find any
17 unforeseen issues once the roof was fully
18 stripped.

19 Q. When you got to the project,
20 did you talk with Alonzo or Fidel?

21 A. I spoke with Alonzo.

22 Q. And what did he say?

23 A. Same thing, good day, asked him
24 what would be the proximity of him
25 completing the job. Also asked him if he

1 PALACIOS

2 reviewed the materials and made sure he had
3 enough quantity of materials. Also advised
4 to be careful with the surrounding
5 properties being that it was extremely
6 tight.

7 Q. When you spoke with Alonzo was
8 it in English or Spanish?

9 A. English.

10 MR. EDELMAN: Read back the
11 last answer.

12 (Whereupon, the referred to
13 answer was read back by the
14 Reporter.)

15 Q. Was Bryan's Home Improvement
16 only scheduled to work on this one home
17 during this time period or other homes as
18 well?

19 MR. DIEUDONNE: Please, note my
20 objection. You can answer.

21 A. He was actually working on this
22 particular home only.

23 Q. At the time Home Depot had
24 scheduled Bryan's Home Improvement to work
25 for approximately three to four days at

1 PALACIOS

2 this home?

3 A. Yes.

4 Q. When you told Alonzo to be
5 careful regarding the surrounding
6 properties because it was close to other
7 homes --

8 A. Yes.

9 Q. -- do you remember anything
10 else about that discussion?

11 A. No.

12 Q. So to your recollection was the
13 homeowner present in that home at the time
14 that this accident happened?

15 A. Yes.

16 Q. How do you know that?

17 A. I was actually informed by the
18 police officer who took the record. Also I
19 received a phone call from the customer.

20 Q. Did you observe the crew from
21 Bryan's working when you were there for the
22 first time?

23 A. Yes.

24 Q. What were they doing?

25 A. They were on the roof stripping

1 PALACIOS

2 the roof, the right side of the roof.

3 Q. Why did they start on the right
4 side?

5 A. Because of easier access.

6 Q. Why was it easier access?

7 A. There is a, there was a -- the
8 next neighboring home was several feet
9 away, and there was actually an alleyway
10 that you could actually walk toward the
11 back of the house, a small little -- on
12 the side of the house.

13 Q. At the right of it?

14 A. On the right of it, yes.

15 Q. When did you first observe
16 that?

17 A. I actually saw that originally
18 when I measured the job because that was
19 the access I used to get around to the
20 house.

21 Q. Do you recall how many members
22 of the crew were working at that time?

23 A. No, I don't recall.

24 Q. Did Home Depot provide any
25 safety equipment to those workers such as

1 PALACIOS

2 harnesses, lanyards, hard hats, goggles?

3 A. The only thing Home Depot
4 provides for them would be a vest to show
5 that they are representatives from Home
6 Depot.

7 Q. Were they wearing the vest?

8 A. Yes.

9 Q. Is that a protocol that workers
10 on Home Depot projects have to wear the
11 Home Depot vest?

12 A. There is a protocol, yes, a
13 vest or either an orange shirt.

14 Q. The first time that you were
15 there at the project, how long did you
16 stay?

17 A. About half an hour to
18 45 minutes.

19 Q. Did you observe the crew doing
20 any work that was not proper at the time?

21 A. No.

22 Q. If you saw them doing improper
23 work, could you stop them from doing so?

24 A. Yes.

25 Q. When you were there for 40,

1 PALACIOS

2 45 minutes, did you observe any unsafe
3 conditions at that time?

4 A. No.

5 Q. If you had observed them, do
6 you have the authority to stop unsafe
7 conditions?

8 A. Yes.

9 Q. Did you observe the crew
10 working from ladders at the right side of
11 the house?

12 A. I observed --

13 Q. The right or rear side of the
14 house?

15 A. The rear side of the house with
16 ladders.

17 Q. And the work that they were
18 performing on the rear side with the
19 ladders when you were there, was what they
20 were supposed to be doing to your
21 understanding?

22 A. Yes. It was actually the
23 easiest, one of the easiest points to
24 actually reach the house because the levels
25 of planes on the house transferred from a

1 PALACIOS

2 three-story to a two-story. So they were
3 able to use a 40-foot ladder to get onto
4 the roof from the back, and then harness
5 themselves in and work from either
6 direction. Obviously, they chose the right
7 side because it was the easiest side to
8 work from.

9 Q. How do you know they were
10 harnessed in when you say that?

11 A. When I walked around the house
12 I could see that they had their harness
13 equipment and their tie offs.

14 Q. Would they tie off to anchor
15 points or something else?

16 A. So, what they do they remove
17 the ridge and they anchor themselves to the
18 ridge. There is an actual tool that they
19 anchor themselves in with.

20 Q. Is there a requirement at Home
21 Depot that their subs working on roofs are
22 supposed to be tied off?

23 A. There is not a requirement, but
24 it's safety first as a practice.

25 Q. That's Home Depot's practice?

1 PALACIOS

2 A. That's best practice.

3 Q. If you would observe a worker
4 not tied off working at the top roof level,
5 would you have said something to them to go
6 tie off and wear a harness?

7 A. Yes.

8 Q. The ladders that Bryan's Home
9 Improvement used at the home, did they
10 bring their own ladders?

11 A. Yes.

12 Q. And the harnesses that they
13 use, it's your understanding they brought
14 their own harnesses?

15 A. Yes.

16 MR. EDELMAN: Off the record.

17 (Whereupon, an off-the-record
18 discussion was held.)

19 Q. Do you remember anything else
20 that you spoke to Alonzo and Fidel about
21 that first day?

22 A. No.

23 Q. How did you leave it with them
24 when you left the site that day?

25 A. I always tell them to give me a

1 PALACIOS

2 call anything else that's unforeseen,
3 presents itself or they have a question
4 regarding something that they may not be
5 sure of and to just give me a call.

6 Q. What would be an example of
7 something that's unforeseen?

8 A. Excessive wood rot, you know,
9 something, something that's structurally
10 not sound.

11 Q. On other projects had they
12 called you when they saw stuff like that?

13 A. Yes.

14 Q. What happened did you go back
15 to the site to inspect it?

16 A. I would ask them to send me
17 pictures if I was too far away. And then
18 normally nine times out of ten they have
19 already spoken to the customer and
20 explained and showed the customer as well,
21 so when I make that phone call to the
22 customer they are already aware of, you
23 know, the additional work that will take
24 place that was not contracted that is
25 unforeseen.

1 PALACIOS

2 Q. And would you involve yourself
3 in those discussions in terms of what to
4 do?

5 A. Yes. This way they could obtain
6 the material list would be, what the scope
7 of work would be and also the pricing on
8 labor.

9 Q. Because Home Depot had worked
10 with Bryan's Home Improvement so many times
11 before, was there like a familiarity that
12 you guys had with the company for these
13 projects?

14 A. Can you --

15 Q. Oh, yeah, no problem. I mean,
16 because like Home Depot retained Bryan's
17 Home Improvement prior to this accident to
18 work on all other other residential homes?

19 A. Uh-huh.

20 Q. Would you say that you
21 personally felt it was a familiarity with
22 the company in terms of the work, how it
23 would be performed?

24 A. Yes. We had a great rapport,
25 they'd report back anything that was not

1 PALACIOS

2 sound and fit. And we'll definitely -- we
3 work and agree to how we'll get things
4 repaired and where it wouldn't be a burden
5 as far as labor is concerned or anything of
6 that nature toward the customer, and
7 something that we know is a fair price to
8 pay them for the work.

9 Q. Did Bryan's Home Improvement on
10 other projects before this one ever take
11 too long to do the work?

12 A. No.

13 Q. Do you have an understanding as
14 to when the accident happened in terms of
15 which day?

16 A. No, what day, no.

17 Q. It didn't happen when you were
18 there that first day, right?

19 A. No.

20 Q. When you left the site that
21 first day, did anyone call you from Bryan's
22 Home Improvement to talk about any
23 conditions of the job site that were
24 unforeseen or any additional work issues?

25 A. No.

1 PALACIOS

2 Q. Other homes that Bryan's Home
3 Improvement worked on before this one when
4 they finished their roofing work, would you
5 go to check it out to make sure that they
6 did it?

7 A. We'll do what is called a post
8 inspection, yes.

9 Q. What does that entail?

10 A. To make sure that the property
11 is clean, to make sure that all of the
12 ventilation that's required is installed,
13 we check to make sure that all of the
14 flashing is installed, and make sure that
15 the customer has any additional questions
16 at that point that we answer them.

17 Q. If you observed that some part
18 of that work had not been performed or was
19 not performed properly, would you then ask
20 Bryan's to finish up the work?

21 A. That's correct, yes.

22 Q. Were any records kept of those
23 post inspections?

24 A. Not that I recall.

25 Q. Is that similar to like a

PALACIOS

1
2 punchlist that you are talking about, if
3 you understand the term?

4 A. No.

5 Q. Do you understand what, what a
6 punchlist is?

7 A. Yes.

8 Q. Was a punchlist maintained for
9 these residential projects like this?

10 A. No.

11 Q. Did Home Depot maintain any
12 records for the residential home projects
13 like this one?

14 A. Yes.

15 Q. What kind of record?

16 A. Contracts, any addendums,
17 permits, the drawings that are made by the
18 sales consultants and personnel like
19 myself. And any invoicing, additional
20 invoicing that's actually submitted by the
21 subcontractors.

22 Q. Anything else?

23 A. No. Pictures.

24 Q. The Home Depot's financial
25 department pays out the invoices to the

1 PALACIOS

2 contractors?

3 A. Yes.

4 Q. What kind of pictures?

5 A. Job site pictures such as the
6 ones prior, during and after, if
7 applicable.

8 Q. Do you take the photographs?

9 A. At times.

10 Q. For what purpose?

11 A. Just for record maintaining.

12 Q. Is it also to demonstrate the
13 good craftsmanship or work done to a home?

14 A. At times it's used for that,
15 yes.

16 Q. Do you take any pictures of
17 homes?

18 A. I believe I did.

19 Q. Before --

20 A. Before, yes.

21 Q. And do you remember taking them
22 during or after?

23 A. I don't recall that now.

24 Q. Did Bryan's Home Improvement
25 submit time sheets?

1 PALACIOS

2 A. No.

3 Q. Did they submit any records to
4 your company?

5 A. No. Other than the completion
6 of signature that's supposed to be followed
7 through at the end of the project.

8 Q. What does that entail?

9 A. So once the job is completed
10 the subcontractor will meet with the
11 customer, they will do their own
12 walk-around before they actually walk off
13 the property, and any questions or concerns
14 the customer can point it out, give the
15 subcontractor the opportunity to fix,
16 repair or to make things esthetically look
17 right. They obtain what we call a COC,
18 which is a complete, completion -- a
19 signature completion basically.

20 Q. Does the customer sign off on
21 that?

22 A. Yes.

23 Q. And Bryan's signs off?

24 A. Bryan's also signs off on it.

25 Q. Is it submitted to Home Depot

1 PALACIOS

2 to keep?

3 A. Yes, uh-huh.

4 Q. When did you first learn that
5 there was an accident?

6 A. I actually received a call, it
7 was a Saturday, I received a call from the
8 local police department. They asked me for
9 my name to confirm my identity, they asked
10 me if I was aware that there was a project
11 going on at the residence, they provided me
12 with the address. And they advised that
13 there has been a, an accident and my
14 presence was required.

15 Q. Why did they call you?

16 A. After speaking to the police
17 officer he said that he couldn't get no
18 information from the personnel that was on
19 site, no one would respond to him. So he
20 asked who was the person in charge and they
21 said Home Depot, and they said who at Home
22 Depot, and they gave my name and my number,
23 and that's how they got in contact with me.

24 Q. Where were you at the time?

25 A. I was off site.

1 PALACIOS

2 Q. In Westchester somewhere?

3 A. No. I was in the Bronx.

4 Q. Did you have a discussion with
5 the officer at the time or did you come to
6 the site or something else?

7 A. I actually had the discussion
8 over the phone with him and then I met him
9 at the precinct.

10 Q. Do you remember, approximately,
11 what time of the day it was?

12 A. I met with the officer I want
13 to say anywhere between 2:00 and 3:00.

14 Q. Okay. What was said to you in
15 the phone discussion, if you remember?

16 A. He said that he asked me to
17 confirm my identity, he asked if I worked
18 for Home Depot, he asked if I was familiar
19 with the address that he provided me with.
20 Then he just advised there was an accident
21 and that the person that had the accident
22 had been taken to the hospital.

23 Q. Do you remember if the
24 individual that he mentioned was Daniel
25 Rivera?

1 PALACIOS

2 A. He did not mention a name.

3 Q. Did the officer mention
4 anything else in that phone call to you
5 about how the accident happened?

6 A. No.

7 Q. Then you made arrangements with
8 him to go to the precinct?

9 A. Yes.

10 Q. When you got to the precinct,
11 was anyone else with you --

12 A. No.

13 Q. -- affiliated with the project?

14 A. No. Just myself.

15 Q. Do you remember the name of the
16 officer?

17 A. No.

18 Q. And what was the discussion
19 that you had with him?

20 A. So, he basically said that he
21 would have not needed me to come down to
22 the precinct, but because the personnel
23 that was on the job site didn't provide
24 enough information he thought it would be
25 important that he met at least with someone

1 PALACIOS

2 to finish filling out his report.

3 Q. Did the officer mention if he
4 or she had been at the project site?

5 A. Yes. He said he was at the job
6 site, he responded, and that he questioned
7 the personnel that was on site. And also
8 waited for the ambulance to make sure they
9 came by and took the person to the
10 hospital.

11 Q. Did the officer mention
12 anything about the injuries that the
13 gentleman may have sustained?

14 A. He didn't mention the injuries,
15 he just mentioned how it -- what he -- what
16 information he received on how it happened.

17 Q. And what did the officer
18 mention to you?

19 A. He said that there was, they
20 were climbing up a ladder and that the --
21 the gentleman was carrying a ladder going
22 up a ladder and he then made contact with
23 the live wire that feeds the electric to
24 the home and that he received a -- he
25 received a jolt from the live wire.

1 PALACIOS

2 MR. DIEUDONNE: Read the last
3 question and answer for me, please.

4 (Whereupon, the referred to
5 question and answer was read back by
6 the Reporter.)

7 MR. DIEUDONNE: Thank you.

8 Q. Did the officer mention who was
9 the source of that information?

10 A. I'm sorry?

11 Q. Did the officer mention who was
12 the source of that information to him?

13 A. He said after asking and asking
14 he said it was actually Alonzo that gave
15 him that information.

16 Q. When you mentioned that the
17 officer said that it was contact with a
18 live wire, is it your understanding that
19 there was a live wire in some proximity to
20 the home that the roofing work was being
21 performed at?

22 A. Yes.

23 Q. Where in relation to the home,
24 if you remember?

25 A. What I remember was facing the

1 PALACIOS

2 home it would be on the left side.

3 Q. Had you observed those wires by
4 the left side prior to the project?

5 A. Yes.

6 Q. When you mentioned earlier that
7 you had a discussion with Alonzo or maybe
8 his son about this surrounding property --

9 A. That's correct.

10 Q. -- and the closeness of it to
11 this home, was it to be careful because
12 there was live wires in the area?

13 MR. DIEUDONNE: Again, please,
14 note my objection to form.

15 Q. Or something else?

16 A. Yes. I didn't mention actually
17 wires, I just mentioned just the
18 surrounding areas.

19 Q. Did you signal or show him the
20 wires around there?

21 MR. DIEUDONNE: Please, not my
22 objection again.

23 A. No.

24 Q. Do you have an understanding
25 why the gentleman was carrying a ladder

1 PALACIOS

2 while climbing a different ladder at the
3 time?

4 A. Yes. It was because the home
5 is actually on a three tier, a three-story
6 tier, he had one ladder set up and was
7 taking the other ladder to actually reach
8 the top of the main roof.

9 Q. On prior projects that at Home
10 Depot worked with by Bryan's Home
11 Improvement, had you observed crew members
12 from Bryan's carrying ladders and holding
13 other ones?

14 A. No.

15 Q. If you had seen a worker that
16 day, you know, attempting to climb a ladder
17 while carrying a different ladder, would
18 you say something?

19 A. Yes.

20 Q. What would you have said?

21 A. Told him not to do that, get
22 off, get off of the ladder.

23 Q. Why is that?

24 A. Because they make different
25 height ladders for different height homes.

PALACIOS

1

2

Q. And what do you mean by that?

3

A. So if they required a 40-foot ladder to reach, let's say, a second story or a third story, they could use a 40-foot ladder, and if there was not another one available then they couldn't create a 40-foot ladder of the remaining ladders that they had. They had to actually use the right sized height ladders, so.

10

11

Q. Again, at the time this accident occurred, you were not present?

12

13

A. No.

14

Q. You did not observe them actually, you did not observe the gentleman that was injured climbing one ladder while carrying a different one, right?

15

16

17

18

A. No.

19

Q. If you were there at the time you would of told him not to do that, right?

20

21

22

MR. DIEUDONNE: Objection.

23

Asked and answered.

24

A. Yes.

25

Q. What happened after you got

1 PALACIOS

2 that information from the precinct, did you
3 go to the site or call Alonzo or anything
4 else?

5 A. So, after I met with the
6 officer at the precinct I did speak to
7 Alonzo, I met him at the job site, but at
8 that time the job site was actually closed
9 down because they got OSHA involved. And I
10 asked them where was the -- how was the
11 condition of the person who got hurt, I
12 asked him to clarify what had happened.
13 And then I spoke with the customer,
14 explained that the person who got hurt is
15 currently at the hospital, we were waiting
16 to hear back, because they were concerned
17 as well as to the condition of the person
18 who got injured.

19 MR. DeCARLO: Read that back,
20 please. Thank you.

21 (Whereupon, the referred to
22 answer was read back by the
23 Reporter.)

24 Q. When Alonzo was at the site
25 when you got there that day, there was also

1 PALACIOS

2 an OSHA representative?

3 A. No, an OSHA representative, no.

4 Q. How do you know the site was
5 closed down?

6 A. The officer told me that he was
7 putting a complaint into OSHA. They work
8 in conjunction.

9 Q. Did he say why he was doing
10 that?

11 A. He felt that because of safety
12 issues.

13 Q. And at any time after this
14 accident happened, did you speak with
15 anyone from OSHA?

16 A. Yes, I did. They gave me the
17 rep's name, I contacted the office, which
18 is in the local vicinity of where the house
19 is, actually located in the Yonkers area.
20 They had said that the, that they opened up
21 a case and that the subcontractor was under
22 review, and the job will be halted until
23 they completed their findings.

24 Q. Did you have any other
25 involvement in speaking with OSHA besides

1 PALACIOS

2 that one time with the rep?

3 A. I kept in constant
4 communication just to find out what was
5 going to happen, when the job will be
6 released and what, and will Alonzo still be
7 able to complete his responsibility, his
8 commitment to the job.

9 Q. Do you know how long,
10 approximately, the investigation was?

11 A. About two weeks.

12 Q. Did anyone tell you the
13 findings of the investigation?

14 A. No. They just, they wanted
15 Alonzo and his crew members to actually be
16 OSHA certified so they issued him a fine.

17 Q. They were not OSHA certified,
18 Alonzo's crew?

19 A. Doesn't seem like they were.

20 Q. As of August 2015 of the
21 different contractors Home Depot worked
22 with, were the other contractors OSHA
23 certified?

24 MR. DIEUDONNE: Please, not my
25 objection. You can answer.

1 PALACIOS

2 A. They are not required to.

3 Q. Because of the law --

4 A. Home Depot doesn't require them
5 to be OSHA certified.

6 Q. What did Alonzo say to you when
7 you spoke to him at the scene?

8 A. He said that he took the
9 gentleman over down to the hospital and he
10 was waiting to hear back to see, they were
11 doing some testing on him to make sure
12 everything was fine, and that he will be in
13 the hospital for the next couple of days.
14 And he'll let me know what the status, what
15 condition he was in once they released him
16 from the, from the hospital.

17 Q. Did you have any discussions
18 with Alonzo to follow up after this one,
19 after that discussion?

20 A. After, yes, we did, we had a
21 follow-up afterwards. He had mentioned
22 that the gentleman was released, we
23 received some documents from the hospital
24 stating that everything checked out fine.
25 There was some bruising but nothing

1 PALACIOS

2 catastrophic or anything where he had any
3 broken limbs or anything like that.

4 Q. Did Alonzo mention that the
5 injured person was going to be returning to
6 work or anything --

7 A. No, they did not say.

8 Q. And was it Alonzo's crew that
9 ultimately finished the project?

10 A. Yes.

11 Q. Were you present when they
12 finished the project?

13 A. No.

14 Q. To your understanding, all of
15 the work was completed and they were paid
16 for it, correct?

17 A. That's correct, yes.

18 Q. Did you take any photographs
19 when you arrived at the scene after the,
20 after learning of this accident?

21 A. No.

22 Q. Did Home Depot generate an
23 incident report or accident report?

24 A. I believe they did.

25 Q. Do you know what was the

1 PALACIOS

2 contents of the report, what was said about
3 it?

4 A. No.

5 Q. Which department would maintain
6 such a report, like the risk management
7 department or something else?

8 A. Our risk management, yes.

9 Q. Aside from coming to this
10 deposition today, speaking with OSHA,
11 speaking to your attorney, were you asked
12 to speak to anyone else about this?

13 A. No.

14 Q. Was there any discussion had
15 with Alonzo about getting the appropriate
16 size ladders?

17 A. No.

18 Q. At other projects following
19 this accident that Bryan's worked on, did
20 you ever see any other crew members
21 climbing up one ladder while carrying
22 another ladder at those projects?

23 A. No.

24 Q. Did Home Depot retain any site
25 safety consultants to go to the different

1 PALACIOS

2 projects?

3 A. No.

4 Q. Were any safety meetings held
5 at the projects?

6 A. No.

7 Q. Did Home Depot retain any other
8 contractor to work at this home in Yonkers?

9 A. No.

10 MR. EDELMAN: Do you have a
11 copy of the contract?

12 MR. DIEUDONNE: No.

13 MR. EDELMAN: Mark this
14 contract as Plaintiff's 1.

15 (Whereupon, aforementioned
16 contract was marked as Plaintiff's
17 Exhibit 1 for identification as of
18 this date by the Reporter.)

19 Q. Sir, I just marked a document
20 that's been marked Plaintiff's Exhibit 1,
21 it was annexed to a discovery response
22 disclosure provided by your attorneys, it
23 appears to be some sort of agreement or
24 contract but I want to show it to you to
25 talk about. You can hold onto that

1 PALACIOS

2 Sir, have you had an
3 opportunity to review that document?

4 A. Yes.

5 Q. Have you ever seen this before?

6 A. Yes.

7 Q. What do you understand it to
8 be?

9 A. This is the actual contract
10 agreement that a service provider and the
11 Home Depot will actually agree on before,
12 before they are on board.

13 Q. Could you turn to the last
14 page, number 19 at the bottom?

15 A. Okay.

16 Q. Do you see an area under
17 service provider with a signature?

18 A. Yes.

19 Q. Do you recognize the name
20 that's written in there?

21 A. Yes.

22 Q. Who is that?

23 A. Jesus A. Loja.

24 Q. Do you understand that to be
25 Alonzo?

1 PALACIOS

2 A. Yes.

3 Q. And this agreement, do you
4 understand it was entered between Home
5 Depot and Bryan's Home Improvement?

6 A. Yes.

7 Q. Do you see where it is signed
8 as well by a representative of Home Depot?

9 A. No signature. I see the area
10 but no signature.

11 Q. Do you know if separate
12 agreements were entered into with Bryan's
13 Home Improvement for each different project
14 or did Home Depot have one agreement that
15 kind of governed all of the projects or
16 something?

17 A. That's correct, there is one
18 agreement that governs everything, which is
19 the master agreement, which is what we're
20 looking at here.

21 Q. Now, did you personally
22 negotiate this agreement?

23 A. No.

24 Q. On behalf of Home Depot, do you
25 know who personally negotiated this

1 PALACIOS

2 agreement with Bryan's Home Improvement?

3 A. No.

4 Q. Do you know which department
5 had responsibility for doing that?

6 A. Compliance department.

7 Q. On page 1 of the agreement,
8 paragraph 1.4, in the middle of page there?

9 A. Uh-huh.

10 Q. Do you see the second sentence
11 where it mentions that Home Depot issued a
12 purchase order also known as a work order?

13 A. Yes.

14 Q. What is your understanding of
15 what a purchase order or a work order is?

16 A. The work order -- in --

17 Q. In this context?

18 A. The work order is actually an
19 -- it gives the line items of what the
20 service provider will be paid for.

21 Q. Like a breakdown of each
22 separate service?

23 A. Correct.

24 Q. For the project?

25 A. Yes, correct.

1 PALACIOS

2 Q. Each project has different
3 services that are done, right?

4 A. That's correct.

5 Q. So would there have been a work
6 order specifying which services were done
7 for this home in Yonkers?

8 A. That's correct, yes.

9 Q. Was it the compliance
10 department that would of generated that
11 work order for this project?

12 A. No.

13 Q. Or a different department?

14 A. A different department.

15 Q. I know there's a lot of
16 different departments, which department
17 would generate the work order?

18 A. The work order is actually
19 generate once the, once the contract is
20 entered into the -- after it's entered from
21 the, from the data entry department, a work
22 order is then generated..

23 Q. You mean the contract with the
24 owner and Home Depot after that's finished
25 then the work order is done?

1 PALACIOS

2 A. So --

3 Q. -- or something else?

4 A. No. So, the job is sold, it's
5 contracted, and information is sent to data
6 entry. Data entry then enters all of the
7 information into the system, measurements,
8 re-measurements are done, once all that's
9 confirmed and everything checked out, then
10 the work order is generated and then
11 assigned.

12 Q. I'm sorry, which department
13 would generate work orders?

14 A. The data entry department.

15 Q. And that would be done, I'm
16 sorry, that work order for the project
17 would have been done prior to Bryan's Home
18 Improvement working at this project, right?

19 A. Yes.

20 Q. It would of specified what
21 Bryan's Home Improvement was supposed to
22 have done at the project?

23 A. It will specify what he's
24 getting paid for.

25 Q. Would that have been sent

1 PALACIOS

2 electrically by e-mail to Alonzo at Bryan's
3 or by mail or in person or something else?

4 A. Yes, by e-mail.

5 Q. Do you recall an instance where
6 there was a discrepancy on any of those
7 work orders generated with Bryan's that you
8 needed to talk about with them?

9 A. Yes. Computer generated
10 discrepancies would occur.

11 Q. And what happened in those
12 instances, did you have to work with Alonzo
13 to get them corrected?

14 A. Well, once he receives the work
15 order he'll review it to make sure that he
16 was being paid accordingly per the line
17 items, and then if there was a discrepancy
18 he'll bring it to my attention, and then
19 I'll forward it back to the data entry so
20 they will make the correction.

21 Q. Do you remember if that
22 happened on this particular home?

23 A. On this -- no, I don't think
24 so.

25 Q. On page 2 there is a section

1 PALACIOS

2 3.2, do you see that paragraph?

3 A. Yes, 3.2, yes.

4 Q. Is it your understanding that
5 Bryan's Home Improvement was performing an
6 install only or furnish and install or
7 something else within the context of the
8 paragraph?

9 A. Performing an install.

10 Q. And that's because Home Depot
11 provided the actual roofing materials?

12 A. That's correct.

13 Q. Page 3, sir, Section 4.1.

14 A. Yes.

15 Q. In the context of this, is it
16 your understanding that Bryan's Home
17 Improvement would receive the purchase
18 order and then immediately begin to work at
19 a time dictated by Home Depot?

20 A. Yes.

21 Q. And if Bryan's Home Improvement
22 was performing the work too slowly, would
23 you have stepped in and say something about
24 it?

25 A. I would just find out why is it

1 PALACIOS

2 moving slowly at that point and he'll
3 explain as to why.

4 Q. To try to find a solution to
5 that reason?

6 A. To -- for the reason, yes.

7 Q. On the same page paragraph 4.3,
8 the section for safety?

9 A. Yes.

10 Q. What is your understanding of
11 that section?

12 A. That the service providers that
13 are contracted by us will follow and adhere
14 to all regulated safety compliances that
15 are generated by -- as is stated OSHA.

16 Q. On page 9, paragraph 9.2,
17 halfway into the paragraph do you see a
18 sentence that starts, "If service provider
19 failed to remedy said defect"?

20 A. Yes.

21 Q. And in that sentence there is
22 an indication if the service provider fails
23 to correct some sort of defect regarding
24 the work, service and materials within the
25 time specified by Home Depot and Home

1 PALACIOS

2 Depot's discretion, then Home Depot could
3 have the right to correct the defect at the
4 service provider's expenses, do you see
5 that?

6 A. Yes.

7 Q. Is that your understanding of
8 the relationship with Bryan's Home
9 Improvement?

10 A. Yes.

11 Q. Did you discuss any safety
12 concerns or issues with Bryan's Home
13 Improvement?

14 A. No.

15 Q. Prior to this accident I think
16 you had mentioned you had not observed them
17 performing unsafely, right?

18 A. No.

19 Q. Do you remember the last time
20 that you saw the work order for this
21 project?

22 A. No.

23 Q. Which department, again, would
24 I contact or ask Counsel to contact to see
25 if we can get a copy of the work order?

1 PALACIOS

2 A. You can actually -- I could
3 actually get you the work order if need be
4 a copy of it. It's accessible to everyone.

5 MR. EDELMAN: By Counsel, I
6 will follow up with any post
7 deposition requests regarding any
8 document demands or request.

9 MR. DIEUDONNE: Was that for
10 the work order?

11 MR. EDELMAN: To the extent
12 they are available.

13 MR. DIEUDONNE: Sure. Put your
14 demands into writing.

15 MR. EDELMAN: By Counsel, I'll
16 subsequent to this deposition today
17 regarding any requests I will follow
18 up in writing, and I will request a
19 copy of the agreement as well between
20 Home Depot and the homeowner.

21 Q. Is it your understanding that
22 the gentleman who became injured was
23 performing the work for his company at the
24 time he was injured at the house?

25 A. Say again. I'm sorry.

1 PALACIOS

2 Q. Was it your understanding that
3 the gentleman that became injured was
4 performing work for his company at the
5 house at the time of the accident?

6 A. Yes.

7 Q. Do you recall any specific
8 discussions with Fidel when you visited the
9 project that day?

10 A. No.

11 Q. When you talked with them were
12 you at any particular area of the house or
13 outside of the property, in the front of
14 the house?

15 A. In the front of the house by
16 the front of the, by the sidewalk.

17 Q. Did Home Depot keep like a
18 truck at the project?

19 A. Not Home Depot, no.

20 Q. And you observed the Bryan's
21 Home Improvement crew performing work when
22 you were at the project?

23 A. Yes.

24 Q. Were they performing the work
25 at the time to your satisfaction?

1 PALACIOS

2 A. Yes.

3 Q. And did you observe any
4 problems or issues at that time?

5 A. No.

6 Q. If you had seen something that
7 was a problem or issue with their work in
8 terms of how they were doing it, would you
9 say something to him?

10 MR. DIEUDONNE: Please, note my
11 objection. Asked and answered.

12 A. Yes.

13 MR. EDELMAN: Mike, do you have
14 questions?

15 MR. DeCARLO: Yes, I have some,
16 not too many.

17 MR. EDELMAN: I'll pass it over
18 to Mike for now. I may have some
19 follows-ups.

20 EXAMINATION BY

21 MR. DeCARLO:

22 Q. Good afternoon, sir, my name is
23 Michael DeCarlo, I'm with the law firm of
24 Connors and Connors and we represent
25 Bryan's Home Improvement, Corp.

1 PALACIOS

2 If you don't understand any of
3 my questions let me know and I will repeat
4 it or rephrase it for you so you do
5 understand.

6 A. Okay.

7 Q. Do you understand?

8 A. Yes.

9 Q. Do you have an e-mail address
10 for Bryan's Home Improvement, Corp. or for
11 Alonzo that you used when you needed to
12 communicate?

13 A. Yes.

14 Q. What is the e-mail address?

15 A. If I remember correctly, it was
16 "Bryan's Home Improvement@live.com".

17 Q. Bryan's Home
18 Improvement@live.com?

19 A. .com.

20 Q. L-I-V-E?

21 A. Yes.

22 Q. When you first went to the 58
23 Cook Avenue site to do your measurements,
24 as part of what you would do at the site on
25 such a visit, would you rate the particular

1 PALACIOS

2 job for difficulties in performing the
3 work?

4 A. Yes.

5 Q. Is that related to in any way
6 to the phrase "pitch multiplier" that you
7 used it earlier this morning?

8 A. Yes.

9 Q. How does the pitch multiplier
10 figure into the difficulty of the job?

11 A. Well, the pitch will tell us
12 the steepness of the actual roof, and a lot
13 of their roofing contractors have come up
14 with a sort of some algorithm saying
15 anything over the 6, 12-pitch factor it is
16 a difficult -- it becomes a difficult job
17 because of the steepness.

18 Q. That would mean an increase in
19 the price of the work?

20 A. Sometimes. Not so much because
21 of the steepness but because of either the
22 location or because of the difficulty in
23 accessing the size or what have you, poor
24 access as what we'll reference it to.

25 Q. At this particular location,

1 PALACIOS

2 did the fact that there were different
3 levels of roof mean that it was going to be
4 more difficult to get the materials up to
5 the top roof where the work was to be
6 performed?

7 A. No.

8 MR. EDELMAN: Sorry. What was
9 the last question?

10 (Whereupon, the referred to
11 question was read back by the
12 Reporter.)

13 Q. At this location where you had
14 multiple levels of roof according to Home
15 Depot's best practices, would it have ever
16 been proper to set up a ladder on one of
17 the, say on the second roof to get up to
18 the third roof?

19 A. Best practice, no.

20 Q. It would not have been against
21 any best practice that Home Depot had?

22 A. No, it wouldn't have been
23 against any, no.

24 Q. So if Bryan's Home Improvement
25 Corp. was using a ladder to get to the

1 PALACIOS

2 second roof level and then once they were
3 on the second roof level they used another
4 ladder to get from the second roof level to
5 the third roof level, would that have been
6 something that Home Depot would not have
7 objected to?

8 A. Home Depot would have not
9 objected to it, only if there was access to
10 actually perform this.

11 Q. What do you mean by that?

12 A. In this particular home there
13 is a fence that actually obstructs the
14 ladder from actually -- from you actually
15 walking off when you reach the top of the
16 ladder. So if you set the ladder down at
17 the bottom you then have to climb over the
18 fence, which then becomes, could also
19 become a hazard issue.

20 Q. You are speaking of a railing
21 that was on the edge of the second roof?

22 A. That's correct.

23 Q. So under those circumstances it
24 would not have been a safe practice for
25 Bryan's Home Improvement Corp. to have a

1 PALACIOS

2 ladder, go up to the second roof level and
3 then place a ladder on the second roof
4 level up to the third level roof?

5 A. No.

6 Q. It would not have been safe?

7 A. It would not have been safe,
8 no.

9 Q. Did Home Depot have a best
10 practice as far as workers walking up a
11 ladder and carrying things while they were
12 walking up a ladder?

13 A. No best practice, no.

14 Q. Was that a permissible thing to
15 do, to be carrying something as you were
16 walking up a ladder?

17 A. That's how I will say
18 90 percent of the roofing crews working for
19 the Home Depot perform that task.

20 Q. Carrying things up a ladder?

21 A. Carrying roofing materials up a
22 ladder.

23 Q. Such as shingles?

24 A. The shingles and the
25 accessories.

1 PALACIOS

2 Q. Was there a Home Depot best
3 practice for fastening a ladder that was to
4 be used by workers on jobs?

5 A. A ladder has to be fastened at
6 any point of -- around the home wherever it
7 is positioned even if it's at to a six-foot
8 height landing.

9 Q. Was there a best practice of
10 Home Depot as to how a ladder was to be
11 fastened?

12 A. No.

13 Q. Was the job at 58 Cook Avenue
14 considered to be a somewhat difficult job
15 due to the multiple levels of the roof or
16 the pitch of any of the roof levels?

17 A. It was considered to be a
18 difficult job because of the poor access on
19 the left side of the home.

20 Q. Poor access meaning that there
21 was a limited space in which to place a
22 ladder?

23 A. Limited space to where to place
24 a ladder to where moving debris will also
25 possibly can come into contact with the

1 PALACIOS

2 neighboring home as it is coming off.

3 Q. When you refer to the left side
4 of the house you are referring to the left
5 side as you would be in the street facing
6 the house?

7 A. Yes.

8 Q. After your initial visit on
9 this particular job, were you regularly at
10 that job site?

11 A. Yes.

12 Q. Did you go every day?

13 A. Not every day, no.

14 Q. On this particular job after
15 your initial visit to do the measurements,
16 did you then go there on the first day of
17 the job?

18 A. On the first day of the job
19 start, yes.

20 Q. After the first day of the job
21 start when you were there, did you get to
22 the site at any time before the accident
23 occurred?

24 A. No.

25 Q. Based on your knowledge and

1 PALACIOS

2 experience with this type of work, was it
3 possible to wear a harness while you were
4 climbing up and down a ladder?

5 A. Yes.

6 Q. How would you do that? If you
7 had a harness on and you were climbing a
8 ladder, say climbing a ladder to get from
9 the ground to the second roof on this
10 particular job, how would you connect a
11 harness so as to have a person climbing a
12 ladder to prevent a fall?

13 MR. EDELMAN: Objection to
14 form.

15 A. So the -- whoever is going to
16 go up the ladder they will have the harness
17 already on their body, and there is
18 actually an attachment either on the back,
19 depending on what kind of lanyard they are
20 using, it will either be on the back or
21 clipped to the front. And what happens is
22 they need to actually tie the line in and
23 have it tied as they are going up, and as
24 they are going up they are actually
25 applying the pressure lock on the actual

1 PALACIOS

2 lanyard to hold them in the event of a
3 slip.

4 Q. I'm not sure I understand how
5 would you prevent a fall. What would you
6 connect the harness to, what is it that
7 would prevent the fall?

8 A. The harness is strapped onto
9 your body and the line is tied out onto the
10 ridge of the roof, and that line is
11 actually either inserted on the back of the
12 harness, depending on the type of lanyard
13 they had, it's either a fastener on the
14 back or on the front, and they will
15 actually have that line already introduced
16 into that area. So that as they are going
17 up they are already have, the line is
18 already connected to the harness in case
19 there is a slip or fall.

20 Q. And the line would be connected
21 in this particular case that we're speaking
22 of, the line would be connected to the
23 second level roof if that's where you are
24 climbing to?

25 MR. EDELMAN: Objection to

1 PALACIOS

2 form.

3 A. It will be connected to the top
4 main roof.

5 Q. Are you saying that if you were
6 climbing a ladder from the ground to the
7 second level roof on this job, the harness
8 would be connected to the same place as the
9 harness would be connected if you were
10 doing roof work on the third level roof?

11 A. Not sure if I understood that.

12 Q. All right. I think you
13 indicated earlier that when the workers
14 were on this job, when the workers would be
15 say stripping the roof on the third floor
16 roof, their harness would be connected to
17 some point on that third level roof?

18 A. Correct.

19 Q. Would the harness of a worker
20 climbing a ladder from the ground to the
21 second level roof, if he had his harness
22 properly connected, would that be connected
23 to the same location as the workers who
24 were stripping a roof on the third level
25 roof would have their harnesses connected?

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2 MR. EDELMAN: Objection to
3 form.

4 A. Yes, that's correct.

5 Q. Did you indicate earlier that
6 Home Depot's risk management department
7 generated an accident report in connection
8 with this incident?

9 A. Yes.

10 Q. Have you ever seen that
11 incident or accident report?

12 A. That particular one -- what
13 happens is we generate all of the
14 information and we send it down to the
15 corporate office, someone then in turn
16 reviews the documents, but thereafter I
17 don't know what is done with the document
18 or what other type of document is produced.

19 Q. But you've seen this particular
20 type of document, is it a form?

21 A. It's a form with questions.

22 Q. Is such an accident or incident
23 report, does such an accident or incident
24 report typically contain any signed
25 statements of people or is it something

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2 that contains information maybe obtained by
3 you second or third hand?

4 A. There is an area where it asks
5 if there are witnesses present regarding
6 the incident, and at that point you will
7 indicate yes or no, who that person may be
8 and a contact number, if any.

9 Q. In this particular case, would
10 it be, if you are not able to say it, if
11 you know, would it being unlikely that the
12 accident or incident report maintained or
13 generated and maintained by Home Depot's
14 risk management people, would it be
15 unlikely that it would contain a signed
16 statement by anyone at the scene at the
17 time of the accident?

18 A. It wouldn't have anything like
19 that.

20 MR. DeCARLO: No further
21 questions. Thank you.

22 MR. EDELMAN: Off the record.

23 (Whereupon, an off-the-record
24 discussion was held.)

25 EXAMINATION BY

1 PALACIOS

2 MR. EDELMAN:

3 Q. If a worker at this home was
4 going to be climbing up a ladder on the
5 right side or the left side on the first
6 time that they were doing this to get up to
7 the roof level, do you have an
8 understanding if they would be able to tie
9 off on that first trip up the ladder?

10 A. They wouldn't.

11 Q. Does Home Depot maintain any
12 safety manuals?

13 A. Not that I know of.

14 Q. Or safety plans?

15 A. Not that I know of.

16 Q. Do you remember the name of the
17 sales consultants that contracted of behalf
18 of Home Depot with the owner the home?

19 A. Daniel Ratki.

20 Q. R-A --

21 A. T-K-I.

22 Q. Is he still employed?

23 A. Yes.

24 Q. I apologize, I may have asked
25 this before. Have you ever seen that

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2 contract between the owner and the Home
3 Depot?

4 A. Yes.

5 Q. Do you know if that's still
6 accessible for production?

7 A. Yes.

8 MR. EDELMAN: I will follow up
9 with your Counsel subsequent for a
10 copy of that, the contract between
11 the homeowner and Home Depot.

12 Q. Sir, have you ever heard of the
13 phrase "general contractor"?

14 A. Yes.

15 Q. Is it your understanding that
16 Home Depot was the general contractor for
17 this roofing work?

18 A. Yes.

19 Q. And have you had any
20 discussions with anybody else from Alonzo's
21 company, Carlos or anyone else about this
22 accident?

23 A. No.

24 MR. EDELMAN: Thank you. I have
25 no further questions at this time.

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MR. DeCARLO: I don't have
anything further.

(Whereupon, at 1:37 P.M., the
Examination of this witness was
concluded.)

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PALACIOS

D E C L A R A T I O N

I hereby certify that having been
first duly sworn to testify to the truth, I
gave the above testimony.

I FURTHER CERTIFY that the foregoing
transcript is a true and correct transcript
of the testimony given by me at the time
and place specified hereinbefore.

JORGE PALACIOS

Subscribed and sworn to before me
this _____ day of _____ 20____.

NOTARY PUBLIC

1 PALACIOS
 2 E X H I B I T S

3 PLAINTIFF'S EXHIBITS:

4			
5	EXHIBIT	EXHIBIT	
6	NUMBER	DESCRIPTION	PAGE
7	1	Contract	77
8		(Exhibits retained by Counsel.)	

9
 10 I N D E X

11	EXAMINATION BY	PAGE
12	MR. EDELMAN	5
13	MR. DeCARLO	89
14	MR. EDELMAN	102

15		
16	INFORMATION AND/OR DOCUMENTS REQUESTED	
17	INFORMATION AND/OR DOCUMENTS	PAGE
18	Work order for this project.	87
19	Agreement/contract entered into	87
20	between Home Depot and the homeowner.	
21	Agreement/contract entered into	103
22	between Home Depot and the homeowner.	

23

24

25

1 PALACIOS
2 C E R T I F I C A T E
3

4 STATE OF NEW YORK)
5 COUNTY OF KINGS) SS.:
6

7 I, KAREN R. ANIBOLI-KOPANYI, a Notary
8 Public for and within the State of New
9 York, do hereby certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such examination is a true record of
13 the testimony given by that witness.

14 I further certify that I am not
15 related to any of the parties to this
16 action by blood or by marriage and that I
17 am in no way interested in the outcome of
18 this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 13th day of October 2017.
21

22

23

24

25

Karen R. Aniboli-Kop

KAREN R. ANIBOLI-KOPANYI

PALACIOS

	50 [5] - 41:14, 41:15, 41:18, 41:20 58 [3] - 28:5, 90:22, 95:13	accompanied [1] - 19:11 accompany [1] - 32:12 accomplish [1] - 32:3 according [1] - 92:14 accordingly [1] - 83:16 acquired [1] - 45:2 action [2] - 16:24, 107:16 actual [8] - 12:12, 19:18, 23:22, 54:18, 78:9, 84:11, 91:12, 97:25 actually [55] - 11:5, 11:22, 12:14, 18:2, 18:7, 18:9, 18:23, 19:5, 24:4, 25:10, 25:12, 25:20, 29:6, 34:10, 35:25, 36:3, 36:17, 43:19, 45:11, 45:13, 47:11, 49:21, 50:17, 51:9, 51:10, 51:17, 53:22, 53:24, 60:20, 62:12, 63:6, 64:7, 67:14, 68:16, 69:5, 69:7, 70:9, 70:15, 71:8, 72:19, 73:15, 78:11, 80:18, 81:18, 87:2, 87:3, 93:10, 93:13, 93:14, 97:18, 97:22, 97:24, 98:11, 98:15 add [1] - 22:12 addendums [1] - 60:16 addition [1] - 25:13 additional [8] - 15:23, 21:2, 44:6, 48:11, 56:23, 58:24, 59:15, 60:19 address [6] - 5:11, 8:7, 63:12, 64:19, 90:9, 90:14 addresses [1] - 25:19 adequate [1] - 44:7 adhere [1] - 85:13 administer [1] - 4:11 advance [2] - 37:19, 37:22 advertisement [1] - 20:10 advertising [1] - 20:13 advise [2] - 18:21, 18:22 advised [4] - 30:25, 49:3, 63:12, 64:20 advises [1] - 35:23 affiliated [1] - 65:13 aforementioned [1] - 77:15 after [28] - 4:16, 11:14, 17:18, 27:4, 27:10, 27:17, 30:18, 33:15, 33:19, 35:22, 47:10, 61:6, 61:22, 63:16, 67:13, 70:25, 71:5, 72:13, 74:18, 74:19,	74:20, 75:19, 75:20, 81:20, 81:24, 96:8, 96:14, 96:20 afternoon [1] - 89:22 afterward [1] - 27:15 afterwards [1] - 74:21 again [8] - 6:20, 29:2, 33:18, 68:13, 68:22, 70:11, 86:23, 87:25 against [4] - 1:6, 1:12, 92:20, 92:23 ago [5] - 6:23, 7:7, 9:19, 10:11, 11:9 agree [2] - 58:3, 78:11 AGREED [2] - 4:5, 4:20 agreement [12] - 20:18, 21:23, 77:23, 78:10, 79:3, 79:14, 79:18, 79:19, 79:22, 80:2, 80:7, 87:19 Agreement/contract [2] - 106:19, 106:21 agreements [2] - 20:3, 79:12 algorithm [1] - 91:14 all [27] - 4:21, 8:6, 13:6, 13:9, 13:10, 15:6, 24:9, 26:14, 29:22, 30:3, 32:3, 36:3, 43:24, 44:13, 46:3, 46:15, 48:12, 57:18, 59:11, 59:13, 75:14, 79:15, 82:6, 82:8, 85:14, 99:12, 100:13 alleyway [1] - 51:9 allocate [1] - 36:12 Alonzo [22] - 40:10, 42:7, 48:20, 48:21, 49:7, 50:4, 55:20, 67:14, 68:7, 71:3, 71:7, 71:24, 73:6, 73:15, 74:6, 74:18, 75:4, 76:15, 78:25, 83:2, 83:12, 90:11 Alonzo's [4] - 40:25, 73:18, 75:8, 103:20 already [7] - 37:25, 56:19, 56:22, 97:17, 98:15, 98:17, 98:18 also [20] - 15:7, 17:9, 18:13, 20:10, 23:18, 24:15, 36:15, 43:9, 44:5, 48:25, 49:3, 50:18, 57:7, 61:12, 62:24, 66:7, 71:25, 80:12, 93:18, 95:24 always [1] - 55:25 am [2] - 107:14, 107:17 ambulance [1] - 66:8 amendment [1] - 21:7
'10 [1] - 11:12			
1	6		
1 [4] - 4:17, 77:14, 80:7, 106:7 1.4 [1] - 80:8 1/22/76 [1] - 6:3 10 [2] - 1:17, 2:2 10007 [1] - 3:6 102 [1] - 106:14 10281 [2] - 2:13, 3:11 103 [1] - 106:21 10310 [1] - 3:16 10:35 [2] - 1:18, 2:3 11788 [1] - 5:13 11th [1] - 9:5 12-pitch [1] - 91:15 13th [2] - 3:5, 107:20 16cv7552 [1] - 1:6 17 [2] - 5:12, 8:7 19 [1] - 78:14 1998 [1] - 10:23 1:37 [1] - 104:4	6 [1] - 91:15		
	7		
	766 [1] - 3:16 77 [1] - 106:7		
	8		
	87 [2] - 106:18, 106:19 89 [1] - 106:13		
	9		
	9 [1] - 85:16 9.2 [1] - 85:16 90 [1] - 94:18 930-83092 [1] - 3:12		
	A		
	A.M [2] - 1:18, 2:3 able [5] - 7:20, 54:3, 73:7, 101:10, 102:8 about [33] - 9:18, 10:10, 10:13, 10:25, 11:3, 11:9, 13:15, 13:21, 13:24, 21:14, 21:24, 24:22, 24:23, 24:25, 38:22, 42:15, 47:10, 50:10, 52:17, 55:20, 58:22, 60:2, 65:5, 66:12, 68:8, 73:11, 76:2, 76:12, 76:15, 77:25, 83:8, 84:23, 103:21 above [2] - 42:23, 105:6 access [8] - 44:25, 51:5, 51:6, 51:19, 91:24, 93:9, 95:18, 95:20 accessible [2] - 87:4, 103:6 accessing [1] - 91:23 accessories [1] - 94:25 accident [32] - 27:8, 27:11, 27:17, 28:3, 40:2, 40:3, 41:11, 42:4, 42:12, 50:14, 57:17, 58:14, 63:5, 63:13, 64:20, 64:21, 65:5, 70:12, 72:14, 75:20, 75:23, 76:19, 86:15, 88:5, 96:22, 100:7, 100:11, 100:22, 100:23, 101:12, 101:17, 103:22		
2			
2 [1] - 83:25 2010 [1] - 11:11 2015 [10] - 24:24, 25:3, 25:16, 26:4, 27:6, 28:12, 38:25, 40:5, 41:4, 73:20 2017 [3] - 1:17, 2:2, 107:20 20 [1] - 105:19 225 [3] - 2:12, 3:5, 3:11 2:00 [1] - 64:13			
3			
3 [1] - 84:13 3.2 [2] - 84:2, 84:3 30 [1] - 4:16 30-pound [1] - 29:24 3:00 [1] - 64:13			
4			
4.1 [1] - 84:13 4.3 [1] - 85:7 40 [3] - 5:12, 8:7, 52:25 40-foot [4] - 54:3, 70:3, 70:5, 70:8 45 [2] - 52:18, 53:2			
5			
5 [1] - 106:12			

PALACIOS

<p>amongst [1] - 8:3 anchor [3] - 54:14, 54:17, 54:19 AND [2] - 4:5, 4:20 AND/OR [2] - 106:16, 106:17 Aniboli [1] - 2:13 ANIBOLI [2] - 107:7, 107:23 ANIBOLI-KOPANYI [2] - 107:7, 107:23 annexed [1] - 77:21 another [4] - 7:8, 70:6, 76:22, 93:3 answer [13] - 6:17, 6:21, 7:23, 27:24, 30:8, 49:11, 49:13, 49:20, 59:16, 67:3, 67:5, 71:22, 73:25 answered [2] - 70:23, 89:11 anticipate [1] - 8:15 any [80] - 5:23, 6:5, 7:16, 8:3, 8:21, 9:6, 9:7, 10:5, 12:2, 12:7, 12:25, 15:4, 15:23, 16:19, 18:25, 19:14, 19:15, 20:17, 25:3, 29:25, 33:7, 37:8, 38:21, 40:6, 42:9, 42:14, 43:22, 44:2, 44:5, 44:6, 44:15, 45:4, 45:5, 45:23, 48:8, 48:11, 48:16, 51:24, 52:20, 53:2, 58:22, 58:24, 59:15, 59:22, 60:11, 60:16, 60:19, 61:16, 62:3, 62:13, 72:13, 72:24, 74:17, 75:2, 75:18, 76:14, 76:20, 76:24, 77:4, 77:7, 83:6, 86:11, 87:6, 87:7, 87:17, 88:7, 88:12, 89:3, 90:2, 91:5, 92:21, 92:23, 95:6, 95:16, 96:22, 100:24, 101:8, 102:11, 103:19, 107:15 anybody [1] - 103:20 anyone [15] - 4:11, 16:24, 19:12, 21:17, 32:12, 34:13, 38:21, 40:12, 58:21, 65:11, 72:15, 73:12, 76:12, 101:16, 103:21 anything [16] - 15:22, 50:9, 55:19, 56:2, 57:25, 58:5, 60:22, 65:4, 66:12, 71:3, 75:2, 75:3, 75:6, 91:15, 101:18, 104:3</p>	<p>anywhere [1] - 64:13 apologize [1] - 102:24 appearing [1] - 16:18 appears [1] - 77:23 applicable [1] - 61:7 application [2] - 23:12, 23:17 applying [1] - 97:25 appointment [1] - 18:23 appropriate [1] - 76:15 approval [1] - 25:24 approved [3] - 26:4, 29:10, 35:22 approximately [8] - 11:11, 28:8, 41:9, 41:15, 41:22, 49:25, 64:10, 73:10 approximation [1] - 7:21 apron [1] - 47:14 are [54] - 4:21, 7:20, 12:5, 14:14, 14:21, 14:22, 15:10, 15:15, 15:24, 16:6, 16:12, 17:8, 19:11, 20:6, 20:7, 23:9, 24:11, 25:17, 28:4, 34:10, 35:22, 35:24, 39:11, 39:12, 41:22, 43:24, 45:11, 45:14, 45:16, 47:13, 52:5, 54:21, 56:22, 60:2, 60:17, 74:2, 78:12, 81:3, 82:8, 85:13, 85:15, 87:12, 93:20, 96:4, 97:19, 97:23, 97:24, 98:16, 98:17, 98:23, 99:5, 101:5, 101:10 area [15] - 22:16, 32:20, 36:13, 39:3, 39:4, 44:11, 44:25, 45:15, 68:12, 72:19, 78:16, 79:9, 88:12, 98:16, 101:4 areas [1] - 68:18 around [14] - 11:12, 25:3, 28:10, 38:24, 40:5, 43:12, 44:14, 44:18, 45:24, 51:19, 54:11, 62:12, 68:20, 95:6 arrangement [1] - 29:14 arrangements [1] - 65:7 arrive [2] - 22:6, 47:5 arrived [1] - 75:19 as [57] - 4:12, 4:15, 4:21, 5:2, 5:5, 8:19, 8:20, 10:7, 14:2, 14:10, 14:25, 15:18, 23:15, 23:19, 27:21, 34:11, 42:3, 42:25, 45:20, 47:23, 48:15, 49:17,</p>	<p>51:25, 54:24, 56:20, 58:5, 58:13, 61:5, 71:17, 73:20, 77:14, 77:16, 77:17, 79:8, 80:12, 85:3, 85:15, 87:19, 90:24, 91:24, 94:10, 94:15, 94:23, 95:10, 96:2, 96:5, 97:11, 97:23, 98:16, 99:8, 99:23 aside [2] - 16:22, 76:9 ask [5] - 7:17, 25:18, 56:16, 59:19, 86:24 asked [15] - 48:13, 48:23, 48:25, 63:8, 63:9, 63:20, 64:16, 64:17, 64:18, 70:23, 71:10, 71:12, 76:11, 89:11, 102:24 asking [3] - 8:15, 67:13 asks [1] - 101:4 assigned [3] - 11:22, 20:6, 82:11 assist [1] - 15:4 at [102] - 2:10, 7:18, 10:24, 11:19, 16:15, 19:5, 19:14, 21:11, 25:4, 27:10, 28:5, 28:14, 28:20, 29:17, 34:2, 34:13, 37:10, 38:4, 39:7, 39:17, 41:14, 42:17, 42:21, 47:5, 47:25, 49:23, 49:25, 50:13, 51:13, 51:22, 52:15, 52:20, 53:3, 53:10, 54:20, 55:4, 55:9, 59:16, 61:9, 61:14, 62:7, 63:11, 63:21, 63:24, 64:5, 64:9, 65:25, 66:4, 66:5, 67:21, 69:2, 69:9, 70:11, 70:19, 71:6, 71:7, 71:15, 71:24, 72:13, 74:7, 75:19, 76:18, 76:22, 77:5, 77:8, 78:14, 79:20, 82:18, 82:22, 83:2, 84:18, 85:2, 86:3, 87:23, 87:24, 88:4, 88:5, 88:12, 88:18, 88:22, 88:25, 89:4, 90:24, 91:25, 92:13, 93:16, 95:5, 95:7, 95:13, 96:9, 96:22, 101:6, 101:16, 102:3, 103:25, 104:4, 105:10 Atlanta [1] - 36:7 attachment [1] - 97:18 attempting [1] - 69:16 attention [1] - 83:18</p>	<p>attic [2] - 17:6, 26:10 attorney [3] - 5:17, 16:23, 76:11 attorneys [1] - 77:22 Attorneys [3] - 3:4, 3:9, 3:15 August [6] - 24:23, 25:3, 38:24, 40:5, 41:4, 73:20 authority [1] - 53:6 authorize [1] - 18:11 authorized [1] - 4:11 automatically [1] - 31:23 available [2] - 70:7, 87:12 Avenue [6] - 3:16, 5:12, 8:7, 28:6, 90:23, 95:13 aware [3] - 42:9, 56:22, 63:10 away [2] - 51:9, 56:17</p>
B			
<p>B [1] - 106:2 back [27] - 10:23, 11:5, 15:7, 24:23, 25:2, 25:16, 30:6, 30:8, 40:5, 45:20, 49:10, 49:13, 51:11, 54:4, 56:14, 57:25, 67:5, 71:16, 71:19, 71:22, 74:10, 83:19, 92:11, 97:18, 97:20, 98:11, 98:14 background [2] - 8:18, 8:19 bare [1] - 43:21 barrier [2] - 29:24, 44:21 based [4] - 11:19, 18:14, 36:6, 96:25 basic [1] - 9:8 basically [3] - 25:10, 62:19, 65:20 basis [1] - 15:7 be [73] - 4:8, 4:10, 4:14, 7:9, 7:16, 15:5, 16:17, 18:14, 21:3, 22:16, 23:17, 23:20, 24:8, 29:10, 35:4, 36:17, 37:24, 39:23, 39:25, 43:10, 45:25, 48:24, 49:4, 50:4, 52:4, 53:20, 54:22, 56:4, 56:6, 57:6, 57:7, 57:23, 58:4, 62:6, 65:24, 68:2, 68:11, 72:22, 73:5, 73:6, 73:15, 74:5, 74:12, 75:5, 77:23, 78:8, 78:24, 80:20, 82:15, 87:3, 92:3, 92:5, 94:15, 95:4, 95:5, 95:10, 95:14, 95:17, 96:5, 97:20, 98:20, 98:22,</p>			

PALACIOS

<p>99:3, 99:8, 99:9, 99:14, 99:16, 99:22, 101:7, 101:10, 101:14, 102:4, 102:8</p> <p>became [2] - 87:22, 88:3</p> <p>because [23] - 7:13, 37:14, 50:6, 51:5, 51:18, 53:24, 54:7, 57:9, 57:16, 65:22, 68:11, 69:4, 69:24, 71:9, 71:16, 72:11, 74:3, 84:10, 91:17, 91:20, 91:21, 91:22, 95:18</p> <p>become [1] - 93:19</p> <p>becomes [2] - 91:16, 93:18</p> <p>been [28] - 5:3, 6:4, 6:7, 6:14, 11:19, 13:13, 21:11, 29:11, 30:19, 38:16, 46:18, 46:22, 59:18, 63:13, 64:22, 66:4, 77:20, 81:5, 82:17, 82:25, 92:16, 92:20, 92:22, 93:5, 93:24, 94:6, 94:7, 105:4</p> <p>before [27] - 2:13, 4:11, 4:13, 6:8, 8:3, 21:16, 26:6, 27:14, 27:16, 32:15, 39:10, 41:11, 42:12, 42:18, 44:15, 57:11, 58:10, 59:3, 61:19, 61:20, 62:12, 78:5, 78:11, 78:12, 96:22, 102:25, 105:18</p> <p>began [1] - 33:13</p> <p>begin [3] - 8:4, 37:24, 84:18</p> <p>behalf [2] - 79:24, 102:17</p> <p>being [6] - 40:19, 43:6, 49:5, 67:20, 83:16, 101:11</p> <p>believe [4] - 15:9, 48:6, 61:18, 75:24</p> <p>besides [1] - 72:25</p> <p>best [8] - 55:2, 92:15, 92:19, 92:21, 94:9, 94:13, 95:2, 95:9</p> <p>between [11] - 4:6, 32:5, 33:11, 48:14, 64:13, 79:4, 87:19, 103:2, 103:10, 106:20, 106:22</p> <p>bidding [1] - 23:9</p> <p>big [1] - 28:2</p> <p>birth [1] - 6:2</p> <p>bit [1] - 32:14</p> <p>blind [2] - 7:19, 7:22</p> <p>blood [1] - 107:16</p> <p>board [2] - 26:18, 78:12</p> <p>body [2] - 97:17, 98:9</p>	<p>booms [1] - 45:5</p> <p>both [4] - 9:22, 17:10, 17:11, 33:3</p> <p>bottom [2] - 78:14, 93:17</p> <p>box [1] - 38:12</p> <p>branch [4] - 8:13, 15:24, 15:25, 29:3</p> <p>break [1] - 7:17</p> <p>breakdown [1] - 80:21</p> <p>briefly [1] - 36:11</p> <p>bring [3] - 21:6, 55:10, 83:18</p> <p>Broadway [1] - 3:5</p> <p>broken [2] - 24:4, 75:3</p> <p>Bronx [2] - 11:24, 64:3</p> <p>brought [3] - 44:23, 44:24, 55:13</p> <p>bruising [1] - 74:25</p> <p>BRYAN'S [2] - 1:13, 3:15</p> <p>Bryan's [50] - 26:2, 26:13, 26:22, 27:12, 37:5, 37:13, 38:22, 40:7, 41:4, 41:10, 42:10, 42:16, 43:16, 46:8, 47:3, 49:15, 49:24, 50:21, 55:8, 57:10, 57:16, 58:9, 58:21, 59:2, 59:20, 61:24, 62:23, 62:24, 69:10, 69:12, 76:19, 79:5, 79:12, 80:2, 82:17, 82:21, 83:2, 83:7, 84:5, 84:16, 84:21, 86:8, 86:12, 88:20, 89:25, 90:10, 90:16, 90:17, 92:24, 93:25</p> <p>builder [1] - 11:3</p> <p>building [2] - 11:4, 12:10</p> <p>burden [1] - 58:4</p> <p>business [3] - 12:10, 32:5, 32:8</p> <p>but [10] - 40:14, 54:23, 65:22, 71:7, 74:25, 77:24, 79:10, 91:21, 100:16, 100:19</p> <p>BY [7] - 3:6, 3:12, 3:17, 5:6, 89:20, 101:25, 106:11</p> <p>by [62] - 2:7, 2:8, 4:5, 4:10, 4:16, 5:3, 5:23, 13:2, 14:7, 14:12, 15:24, 18:23, 19:11, 22:22, 23:13, 24:4, 30:8, 30:12, 30:16, 31:22, 32:25, 38:16, 40:14, 40:22, 40:24, 47:19, 49:13, 50:17, 60:17, 60:20, 66:9, 67:5, 68:3, 69:10, 70:2,</p>	<p>71:22, 77:18, 77:22, 79:8, 83:2, 83:3, 83:4, 84:19, 85:13, 85:15, 85:25, 87:5, 87:15, 88:15, 88:16, 92:11, 93:11, 95:4, 101:2, 101:13, 101:16, 105:10, 106:8, 107:13, 107:16</p> <p>C</p> <p>C [6] - 3:2, 3:12, 5:2, 105:2, 107:2</p> <p>call [11] - 50:19, 56:2, 56:5, 56:21, 58:21, 62:17, 63:6, 63:7, 63:15, 65:4, 71:3</p> <p>called [3] - 5:2, 56:12, 59:7</p> <p>came [2] - 11:5, 66:9</p> <p>can [12] - 6:17, 6:21, 21:7, 25:21, 27:24, 49:20, 62:14, 73:25, 77:25, 86:25, 87:2, 95:25</p> <p>can you [7] - 10:12, 10:16, 20:22, 25:7, 30:5, 48:4, 57:14</p> <p>cannot [1] - 7:13</p> <p>capacity [2] - 6:24, 7:3</p> <p>card [2] - 9:21, 10:2</p> <p>careful [3] - 49:4, 50:5, 68:11</p> <p>Carlos [4] - 40:17, 40:18, 40:21, 103:21</p> <p>Carloses [1] - 40:20</p> <p>carrying [10] - 66:21, 68:25, 69:12, 69:17, 70:17, 76:21, 94:11, 94:15, 94:20, 94:21</p> <p>case [6] - 5:19, 29:14, 72:21, 98:18, 98:21, 101:9</p> <p>Case [1] - 1:6</p> <p>Castleton [1] - 3:16</p> <p>catastrophic [1] - 75:2</p> <p>cautionary [1] - 45:23</p> <p>center [1] - 43:9</p> <p>Center [2] - 2:12, 3:10</p> <p>central [1] - 8:11</p> <p>certain [1] - 20:6</p> <p>certificate [2] - 9:20, 9:23</p> <p>certification [3] - 4:8, 9:8, 10:13</p> <p>certifications [3] - 9:6, 9:9, 10:9</p> <p>certified [4] - 73:16, 73:17, 73:23, 74:5</p> <p>certify [3] - 105:4, 107:9, 107:14</p>	<p>CERTIFY [1] - 105:8</p> <p>characterize [1] - 42:22</p> <p>charge [1] - 63:20</p> <p>check [5] - 47:18, 47:20, 47:22, 59:5, 59:13</p> <p>checked [4] - 25:18, 43:25, 74:24, 82:9</p> <p>chose [1] - 54:6</p> <p>circulated [1] - 33:22</p> <p>circumstances [1] - 93:23</p> <p>Civil [1] - 2:10</p> <p>clarify [3] - 7:15, 35:3, 71:12</p> <p>clean [1] - 59:11</p> <p>cleaning [1] - 30:3</p> <p>cleans [1] - 45:21</p> <p>cleared [1] - 35:10</p> <p>client [1] - 20:4</p> <p>clients [3] - 13:2, 17:14, 20:19</p> <p>climb [2] - 69:16, 93:17</p> <p>climbing [12] - 66:20, 69:2, 70:16, 76:21, 97:4, 97:7, 97:8, 97:11, 98:24, 99:6, 99:20, 102:4</p> <p>clipped [1] - 97:21</p> <p>close [2] - 25:11, 50:6</p> <p>closed [2] - 71:8, 72:5</p> <p>closeness [1] - 68:10</p> <p>COC [1] - 62:17</p> <p>com [1] - 90:19</p> <p>come [5] - 18:23, 64:5, 65:21, 91:13, 95:25</p> <p>comfortably [1] - 7:20</p> <p>coming [2] - 76:9, 96:2</p> <p>commenced [1] - 5:19</p> <p>commercial [3] - 17:9, 23:12, 23:17</p> <p>commitment [1] - 73:8</p> <p>communicate [1] - 90:12</p> <p>communicated [1] - 17:20</p> <p>communication [1] - 73:4</p> <p>Communities [1] - 12:19</p> <p>company [13] - 7:4, 12:18, 19:12, 22:3, 34:6, 34:14, 35:23, 57:12, 57:22, 62:4, 87:23, 88:4, 103:21</p> <p>complaint [1] - 72:7</p> <p>complaints [2] - 42:10, 42:15</p> <p>complete [3] - 9:16, 62:18, 73:7</p> <p>completed [3] - 62:9, 72:23, 75:15</p>
--	--	--	--

PALACIOS

<p> completing [1] - 48:25 completion [3] - 62:5, 62:18, 62:19 compliance [2] - 80:6, 81:9 compliances [1] - 85:14 computer [1] - 83:9 concerned [3] - 23:16, 58:5, 71:16 concerns [2] - 62:13, 86:12 concluded [1] - 104:6 condition [3] - 71:11, 71:17, 74:15 conditions [3] - 53:3, 53:7, 58:23 conducted [3] - 29:7, 33:12, 35:5 conducting [1] - 11:25 confirm [2] - 63:9, 64:17 confirmation [1] - 36:16 confirmed [1] - 82:9 conjunction [1] - 72:8 connect [2] - 97:10, 98:6 connected [10] - 98:18, 98:20, 98:22, 99:3, 99:8, 99:9, 99:16, 99:22, 99:25 connection [2] - 5:18, 100:7 Connors [2] - 89:24 CONNORS [2] - 3:14 considered [2] - 95:14, 95:17 constant [1] - 73:3 construction [3] - 8:24, 9:7, 12:13 consultant [8] - 18:25, 19:18, 21:6, 21:20, 21:21, 31:20, 33:2, 33:9 consultants [5] - 20:6, 22:21, 60:18, 76:25, 102:17 contact [11] - 18:20, 21:6, 34:8, 35:25, 63:23, 66:22, 67:17, 86:24, 95:25, 101:8 contacted [3] - 37:4, 37:13, 72:17 contain [2] - 100:24, 101:15 contains [1] - 101:2 content [1] - 17:23 contents [1] - 76:2 context [3] - 80:17, 84:7, 84:15 continue [2] - 27:13, 27:18 Contract [1] - 106:7 </p>	<p> contract [18] - 18:15, 20:8, 21:2, 21:5, 21:8, 30:19, 30:22, 31:21, 46:6, 77:11, 77:14, 77:16, 77:24, 78:9, 81:19, 81:23, 103:2, 103:10 contracted [9] - 16:17, 17:19, 29:6, 39:24, 39:25, 56:24, 82:5, 85:13, 102:17 contractor [6] - 19:23, 19:24, 35:18, 77:8, 103:13, 103:16 contractor's [1] - 24:16 contractors [9] - 23:24, 24:9, 24:11, 24:19, 41:5, 61:2, 73:21, 73:22, 91:13 contracts [1] - 60:16 convicted [1] - 6:4 Cook [3] - 28:6, 90:23, 95:13 cooperative [1] - 48:16 coordinate [1] - 36:13 coordinating [1] - 14:5 copy [8] - 4:14, 4:17, 30:23, 77:11, 86:25, 87:4, 87:19, 103:10 CORP [2] - 1:13, 3:15 Corp [4] - 89:25, 90:10, 92:25, 93:25 corporate [5] - 31:18, 31:22, 36:2, 36:5, 100:15 correct [34] - 10:22, 14:24, 15:17, 18:13, 18:18, 19:7, 19:10, 20:16, 21:19, 22:2, 25:25, 27:9, 28:18, 29:15, 35:12, 36:21, 36:22, 37:7, 59:21, 68:9, 75:16, 75:17, 79:17, 80:23, 80:25, 81:4, 81:8, 84:12, 85:23, 86:3, 93:22, 99:18, 100:4, 105:9 corrected [1] - 83:13 correction [1] - 83:20 correctly [2] - 20:21, 90:15 could [12] - 8:17, 22:4, 25:15, 51:10, 52:23, 54:12, 57:5, 70:5, 78:13, 86:2, 87:2, 93:18 couldn't [2] - 63:17, 70:7 counsel [2] - 4:6, 4:17 Counsel [5] - 86:24, 87:5, 87:15, 103:9, 106:8 counties [2] - 24:8, 24:14 </p>	<p> COUNTY [1] - 107:5 county [1] - 24:7 County [1] - 24:20 couple [2] - 40:13, 74:13 course [5] - 9:10, 9:12, 9:15, 9:17, 44:18 courses [1] - 10:6 court [1] - 7:10 COURT [1] - 1:2 Court [3] - 2:9, 4:13, 5:19 craftsmanship [1] - 61:13 crash [1] - 11:4 create [1] - 70:7 crew [10] - 50:20, 51:22, 52:19, 53:9, 69:11, 73:15, 73:18, 75:8, 76:20, 88:21 crews [1] - 94:18 crimes [1] - 6:5 current [1] - 13:11 currently [5] - 15:9, 15:11, 24:21, 24:22, 71:15 customer [19] - 18:21, 19:2, 21:3, 21:8, 29:14, 29:17, 36:14, 47:22, 47:25, 50:19, 56:19, 56:20, 56:22, 58:6, 59:15, 62:11, 62:14, 62:20, 71:13 customers [4] - 19:4, 20:4, 20:8, 20:19 </p>	<p> deal [1] - 42:7 deals [1] - 18:7 dealt [1] - 34:14 debris [4] - 30:3, 45:21, 45:24, 95:24 DeCarlo [10] - 3:17, 30:5, 41:18, 71:19, 89:15, 89:21, 89:23, 101:20, 104:2, 106:13 deciding [1] - 25:4 decking [1] - 43:25 defect [3] - 85:19, 85:23, 86:3 DEFENDANT [2] - 1:9, 1:14 Defendant [3] - 2:5, 3:9, 3:15 Defendant's [1] - 39:17 definitely [1] - 58:2 deliver [1] - 34:22 delivered [2] - 37:25, 38:5 demands [2] - 87:8, 87:14 demonstrate [1] - 61:12 department [21] - 12:15, 12:23, 20:11, 37:4, 37:10, 60:25, 63:8, 76:5, 76:7, 80:4, 80:6, 81:10, 81:13, 81:14, 81:16, 81:21, 82:12, 82:14, 86:23, 100:6 departments [1] - 81:16 depending [2] - 97:19, 98:12 Deport [1] - 106:22 deposed [2] - 6:7, 6:15 deposited [1] - 45:9 DEPOSITION [2] - 1:24, 2:5 deposition [10] - 4:8, 4:9, 4:14, 5:20, 6:9, 12:2, 39:18, 76:10, 87:7, 87:16 DEPOT [4] - 1:8, 1:10, 2:6, 3:10 Depot [89] - 7:5, 8:12, 10:18, 10:23, 10:24, 10:25, 11:5, 14:13, 14:15, 14:16, 14:18, 16:3, 17:2, 17:12, 19:22, 20:2, 20:9, 21:11, 22:24, 23:3, 23:25, 24:10, 24:15, 24:20, 26:7, 26:13, 26:21, 27:13, 30:20, 34:2, 36:20, 37:4, 37:25, 38:17, 39:2, 39:6, 39:13, 41:6, 41:12, 47:15, 47:16, </p>
D			
<p> D [3] - 4:2, 105:2, 106:10 D'Amato [1] - 2:11 D'AMATO [1] - 3:8 Daniel [3] - 40:23, 64:24, 102:19 DANIEL [2] - 1:3, 3:5 data [7] - 31:22, 34:11, 81:21, 82:5, 82:6, 82:14, 83:19 database [1] - 31:18 date [2] - 6:2, 77:18 DATE [2] - 1:17, 2:2 day [23] - 16:8, 21:14, 37:23, 41:23, 48:10, 48:23, 55:21, 55:24, 58:15, 58:16, 58:18, 58:21, 64:11, 69:16, 71:25, 88:9, 96:12, 96:13, 96:16, 96:18, 96:20, 105:19, 107:20 days [10] - 4:16, 16:9, 16:11, 32:6, 32:8, 37:19, 37:22, 48:15, 49:25, 74:13 </p>			

PALACIOS

<p>47:19, 49:23, 51:24, 52:3, 52:6, 52:10, 52:11, 54:21, 57:9, 57:16, 60:11, 62:25, 63:21, 63:22, 64:18, 69:10, 73:21, 74:4, 75:22, 76:24, 77:7, 78:11, 79:5, 79:8, 79:14, 79:24, 80:11, 81:24, 84:10, 84:19, 85:25, 86:2, 87:20, 88:17, 88:19, 92:21, 93:6, 93:8, 94:9, 94:19, 95:2, 95:10, 102:11, 102:18, 103:3, 103:11, 103:16, 106:20</p> <p>Depot's [7] - 29:12, 54:25, 60:24, 86:2, 92:15, 100:6, 101:13</p> <p>describe [8] - 10:12, 10:16, 20:22, 22:4, 25:7, 42:24, 42:25, 48:5</p> <p>described [1] - 47:24</p> <p>DESCRIPTION [1] - 106:6</p> <p>determine [1] - 22:12</p> <p>determined [1] - 25:9</p> <p>devoted [1] - 17:12</p> <p>dictated [1] - 84:19</p> <p>did [38] - 26:13, 27:12, 32:12, 33:16, 33:19, 34:22, 42:16, 46:12, 46:19, 46:23, 51:24, 58:9, 58:21, 60:11, 61:18, 61:24, 65:2, 65:3, 66:3, 66:11, 67:8, 67:11, 70:14, 70:15, 71:6, 72:16, 73:12, 74:20, 75:4, 75:7, 75:22, 75:24, 76:24, 77:7, 79:14, 88:17, 92:2, 94:9</p> <p>did he [1] - 72:9</p> <p>did it [2] - 35:14, 59:6</p> <p>did they [6] - 11:17, 27:18, 51:3, 55:9, 62:3, 63:15</p> <p>did you [40] - 9:2, 9:20, 11:13, 16:19, 19:8, 25:2, 25:3, 25:23, 28:20, 34:8, 35:18, 38:20, 40:6, 40:9, 42:7, 47:17, 48:20, 50:20, 52:15, 52:19, 53:2, 53:9, 56:14, 64:4, 64:5, 68:19, 71:2, 72:14, 72:24, 74:17, 75:18, 76:19, 79:21, 83:12, 86:11, 89:3, 96:12, 96:16, 96:21, 100:5</p>	<p>didn't [5] - 48:16, 58:17, 65:23, 66:14, 68:16</p> <p>DIEUDONNE [16] - 3:12, 6:16, 6:20, 27:23, 47:7, 49:19, 67:2, 67:7, 68:13, 68:21, 70:22, 73:24, 77:12, 87:9, 87:13, 89:10</p> <p>different [26] - 16:15, 16:16, 19:22, 19:24, 20:14, 25:19, 26:7, 26:15, 38:25, 39:17, 42:24, 46:3, 69:2, 69:17, 69:24, 69:25, 70:17, 73:21, 76:25, 79:13, 81:2, 81:13, 81:14, 81:16, 92:2</p> <p>difficult [5] - 91:16, 92:4, 95:14, 95:18</p> <p>difficulties [1] - 91:2</p> <p>difficulty [3] - 23:20, 91:10, 91:22</p> <p>direct [1] - 28:21</p> <p>direction [1] - 54:6</p> <p>directly [1] - 18:7</p> <p>disclosure [1] - 77:22</p> <p>discovery [1] - 77:21</p> <p>discrepancies [2] - 21:15, 83:10</p> <p>discrepancy [2] - 83:6, 83:17</p> <p>discretion [1] - 86:2</p> <p>discuss [1] - 86:11</p> <p>discussed [1] - 16:23</p> <p>discussion [11] - 48:8, 50:10, 55:18, 64:4, 64:7, 64:15, 65:18, 68:7, 74:19, 76:14, 101:24</p> <p>discussions [6] - 19:3, 38:21, 57:3, 74:17, 88:8, 103:20</p> <p>distance [1] - 7:21</p> <p>DISTRICT [2] - 1:2, 1:2</p> <p>division [3] - 11:6, 11:8, 11:15</p> <p>do [21] - 7:16, 11:17, 18:19, 20:12, 22:5, 22:10, 35:11, 36:3, 57:4, 58:11, 59:7, 62:11, 69:21, 70:20, 90:4, 90:23, 90:24, 94:15, 96:15, 97:6, 107:9</p> <p>do they [3] - 17:3, 23:5, 54:16</p> <p>do you [78] - 5:23, 9:6, 9:13, 9:23, 10:2, 12:2, 14:7, 17:16, 18:19, 20:2, 20:17, 21:13,</p>	<p>23:13, 24:15, 26:25, 27:21, 28:8, 30:14, 31:15, 33:7, 34:5, 34:13, 36:23, 37:8, 38:7, 38:25, 39:20, 39:23, 40:16, 40:19, 40:22, 41:3, 41:10, 46:8, 46:12, 47:12, 48:8, 50:9, 51:21, 53:5, 55:19, 58:13, 60:5, 61:8, 61:16, 61:21, 64:10, 64:23, 65:15, 68:24, 70:2, 73:9, 75:25, 77:10, 78:7, 78:16, 78:19, 78:24, 79:3, 79:7, 79:11, 79:24, 80:4, 80:10, 83:5, 83:21, 84:2, 85:17, 86:4, 86:19, 88:7, 89:13, 90:7, 90:9, 93:11, 102:7, 102:16, 103:5</p> <p>document [6] - 77:19, 78:3, 87:8, 100:17, 100:18, 100:20</p> <p>DOCUMENTS [2] - 106:16, 106:17</p> <p>documents [3] - 16:20, 74:23, 100:16</p> <p>does [9] - 17:12, 18:4, 20:9, 23:3, 24:19, 62:20, 91:9, 100:23, 102:11</p> <p>does that [2] - 59:9, 62:8</p> <p>doesn't [2] - 73:19, 74:4</p> <p>doing [11] - 50:24, 52:19, 52:22, 52:23, 53:20, 72:9, 74:11, 80:5, 89:8, 99:10, 102:6</p> <p>don't [22] - 7:19, 7:22, 7:23, 9:25, 10:4, 11:10, 30:17, 33:10, 34:21, 36:25, 37:11, 39:5, 40:14, 42:20, 46:13, 51:23, 61:23, 83:23, 90:2, 100:17, 104:2</p> <p>done [20] - 8:22, 15:5, 16:17, 18:14, 21:3, 25:21, 32:23, 34:12, 37:18, 37:21, 39:25, 61:13, 81:3, 81:6, 81:25, 82:8, 82:15, 82:17, 82:22, 100:17</p> <p>doors [2] - 14:11, 17:7</p> <p>dormer [1] - 43:12</p> <p>dormers [1] - 44:20</p> <p>down [10] - 24:4, 43:21, 45:13, 65:21, 71:9, 72:5, 74:9, 93:16, 97:4, 100:14</p>	<p>drawing [9] - 22:19, 22:20, 22:23, 32:21, 32:23, 33:8, 33:17, 33:22, 33:24</p> <p>drawings [3] - 33:5, 33:20, 60:17</p> <p>drawn [1] - 21:23</p> <p>drip [1] - 44:12</p> <p>driver [2] - 38:17, 38:18</p> <p>drop [1] - 45:13</p> <p>dropped [2] - 45:17, 45:25</p> <p>due [1] - 95:15</p> <p>duly [3] - 5:3, 105:5, 107:11</p> <p>dumpsters [1] - 45:10</p> <p>during [3] - 49:17, 61:6, 61:22</p> <p>duties [5] - 12:20, 14:2, 14:25, 15:18, 15:23</p>
E			
<p>E [10] - 3:2, 4:2, 5:2, 105:2, 106:2, 106:10, 107:2</p> <p>e [11] - 17:22, 17:24, 31:9, 31:12, 31:15, 31:17, 31:24, 83:2, 83:4, 90:9, 90:14</p> <p>e-mail [11] - 17:22, 17:24, 31:9, 31:12, 31:15, 31:17, 31:24, 83:2, 83:4, 90:9, 90:14</p> <p>each [5] - 22:24, 35:14, 39:12, 79:13, 80:21, 81:2</p> <p>eagle [3] - 22:18, 22:23, 32:21</p> <p>earlier [4] - 68:6, 91:7, 99:13, 100:5</p> <p>easier [2] - 51:5, 51:6</p> <p>easiest [3] - 53:23, 54:7</p> <p>EDELMAN [22] - 3:6, 5:7, 47:9, 49:10, 55:16, 77:10, 77:13, 87:5, 87:11, 87:15, 89:13, 89:17, 92:8, 97:13, 98:25, 100:2, 101:22, 102:2, 103:8, 103:24, 106:12, 106:14</p> <p>Edelman [1] - 5:16</p> <p>edge [2] - 44:12, 93:21</p> <p>educational [2] - 8:18, 8:19</p> <p>effect [2] - 4:12, 4:15</p> <p>eight [1] - 24:25</p> <p>either [10] - 37:21, 45:18, 47:14, 52:13, 54:5, 91:21, 97:18, 97:20,</p>			

PALACIOS

<p>98:11, 98:13 elapsed [1] - 33:11 electric [1] - 66:23 electrically [1] - 83:2 elements [1] - 38:12 else [31] - 7:2, 15:22, 16:24, 17:10, 19:12, 21:17, 24:7, 31:19, 33:2, 35:21, 37:20, 38:13, 40:12, 47:21, 50:10, 54:15, 55:19, 56:2, 60:22, 64:6, 65:4, 65:11, 68:15, 71:4, 76:7, 76:12, 82:3, 83:3, 84:7, 103:20, 103:21 elsewhere [1] - 11:21 employed [1] - 102:22 employment [2] - 6:25, 7:3 end [1] - 62:7 ended [1] - 27:22 English [3] - 12:2, 49:8, 49:9 enough [2] - 49:3, 65:24 entail [3] - 18:5, 59:9, 62:8 entered [8] - 31:21, 34:11, 79:4, 79:12, 81:20, 106:19, 106:21 enters [2] - 20:3, 82:6 entities [2] - 23:6, 23:8 entry [6] - 34:11, 81:21, 82:6, 82:14, 83:19 EPA [3] - 9:9, 10:8, 10:12 equipment [2] - 51:25, 54:13 ESQ [3] - 3:6, 3:12, 3:17 esthetically [1] - 62:16 evaluate [1] - 25:21 evaluated [1] - 25:15 even [1] - 95:7 event [1] - 98:2 ever [11] - 5:23, 6:4, 19:11, 42:14, 58:10, 76:20, 78:5, 92:15, 100:10, 102:25, 103:12 every [4] - 16:8, 21:14, 96:12, 96:13 everyone [1] - 87:4 everything [6] - 23:15, 47:23, 74:12, 74:24, 79:18, 82:9 exactly [1] - 18:14 Examination [1] - 104:5 examination [2] - 107:10, 107:12 EXAMINATION [4] - 5:6, 89:20, 101:25, 106:11 examined [1] - 5:5</p>	<p>example [2] - 20:24, 56:6 except [1] - 4:21 excessive [1] - 56:8 exclusively [1] - 17:8 EXHIBIT [2] - 106:5 Exhibit 1 [2] - 77:17, 77:20 Exhibit A [2] - 39:17, 42:21 EXHIBITS [1] - 106:3 Exhibits [1] - 106:8 existing [1] - 45:8 expectation [1] - 46:14 expecting [1] - 21:4 expeditor [3] - 18:6, 34:4, 35:9 expenses [1] - 86:4 experience [1] - 97:2 explain [2] - 21:4, 85:3 explained [2] - 56:20, 71:14 exposed [1] - 38:11 extent [1] - 87:11 exterior [6] - 8:12, 11:6, 11:8, 11:15, 17:2, 20:9 extremely [1] - 49:5 eye [1] - 32:21</p>	<p>field [13] - 8:25, 13:19, 13:23, 14:3, 15:2, 15:3, 15:10, 16:13, 16:14, 19:5, 21:22, 39:12, 47:13 fields [1] - 9:7 figure [1] - 91:10 File [2] - 3:12, 3:17 file [2] - 18:9, 33:25 filing [1] - 4:7 filling [1] - 66:2 Financial [2] - 2:11, 3:10 financial [1] - 60:24 find [5] - 21:24, 48:16, 73:4, 84:25, 85:4 findings [2] - 72:23, 73:13 fine [5] - 7:17, 7:22, 73:16, 74:12, 74:24 finish [3] - 9:2, 59:20, 66:2 finished [5] - 10:20, 59:4, 75:9, 75:12, 81:24 firm [1] - 89:23 first [20] - 5:3, 17:16, 29:4, 31:7, 37:23, 50:22, 51:15, 52:14, 54:24, 55:21, 58:18, 58:21, 63:4, 90:22, 96:16, 96:18, 96:20, 102:5, 102:9, 105:5 fit [1] - 58:2 five [3] - 9:14, 24:22, 41:7 fix [1] - 62:15 flashing [3] - 44:13, 44:18, 59:14 Floor [1] - 3:5 floor [1] - 99:15 fluent [1] - 12:5 follow [6] - 74:18, 74:21, 85:13, 87:6, 87:17, 103:8 follow-up [1] - 74:21 followed [1] - 62:6 following [1] - 76:18 follows [2] - 5:5, 89:19 follows-ups [1] - 89:19 foot [1] - 95:7 for [126] - 3:4, 3:9, 3:15, 4:6, 4:18, 5:8, 6:8, 7:16, 8:11, 8:12, 8:16, 10:25, 11:3, 11:6, 11:13, 12:15, 13:15, 14:5, 15:8, 15:21, 16:18, 17:8, 17:9, 17:11, 18:2, 18:9, 18:17, 19:12, 20:4, 20:24, 22:24, 23:25, 24:10, 25:15, 25:19,</p>	<p>25:20, 25:24, 26:18, 27:13, 27:19, 29:9, 29:20, 30:25, 31:10, 31:12, 31:25, 32:2, 32:10, 32:15, 32:22, 33:9, 33:24, 34:16, 34:23, 35:2, 35:7, 35:13, 35:16, 36:3, 36:16, 36:20, 37:3, 37:13, 38:17, 41:3, 41:6, 41:12, 43:25, 44:4, 44:5, 44:6, 44:7, 46:4, 46:20, 46:24, 47:2, 49:25, 50:21, 52:4, 52:25, 57:12, 58:8, 60:8, 60:12, 61:10, 61:11, 61:14, 63:8, 64:18, 66:8, 67:3, 69:25, 74:13, 75:16, 77:17, 79:13, 80:5, 80:20, 80:24, 81:7, 81:11, 82:16, 82:24, 85:6, 85:8, 86:20, 87:9, 87:23, 88:4, 89:18, 90:4, 90:10, 91:2, 93:24, 94:18, 95:3, 103:6, 103:9, 103:16, 106:18, 107:8 force [2] - 4:15, 17:15 foregoing [1] - 105:8 form [7] - 4:21, 68:14, 97:14, 99:2, 100:3, 100:20, 100:21 forth [1] - 107:11 forward [2] - 21:9, 83:19 four [5] - 32:5, 32:7, 32:8, 48:15, 49:25 from [47] - 9:10, 9:12, 16:22, 18:24, 19:12, 19:22, 20:2, 23:18, 28:2, 30:3, 31:3, 36:24, 38:18, 38:21, 45:14, 45:15, 45:25, 50:19, 50:20, 52:5, 52:23, 53:10, 53:25, 54:4, 54:5, 54:8, 58:21, 63:7, 63:18, 66:25, 69:12, 71:2, 72:15, 74:16, 74:23, 76:9, 81:20, 81:21, 93:4, 93:14, 97:8, 99:6, 99:20, 103:20 front [9] - 22:10, 38:9, 42:21, 45:19, 88:13, 88:15, 88:16, 97:21, 98:14 full [1] - 8:16 fully [2] - 47:2, 48:17 furnish [1] - 84:6 furnished [1] - 30:24</p>
F			
	<p>F [2] - 4:2, 107:2 face [1] - 40:15 facing [2] - 67:25, 96:5 fact [1] - 92:2 factor [4] - 22:13, 22:15, 32:18, 91:15 failed [1] - 85:19 fails [1] - 85:22 fair [1] - 58:7 fall [4] - 97:12, 98:5, 98:7, 98:19 familiar [3] - 6:11, 28:4, 64:18 familiarity [2] - 57:11, 57:21 far [5] - 8:19, 23:15, 56:17, 58:5, 94:10 fastened [2] - 95:5, 95:11 fastener [1] - 98:13 fastening [1] - 95:3 Federal [2] - 2:9, 5:19 feeds [1] - 66:23 feet [1] - 51:8 felt [4] - 29:24, 44:21, 57:21, 72:11 fence [2] - 93:13, 93:18 few [2] - 37:18, 37:21 Fidel [6] - 40:10, 40:25, 42:7, 48:20, 55:20, 88:8</p>		

PALACIOS

<p>further [4] - 101:20, 103:25, 104:3, 107:14 FURTHER [2] - 4:20, 105:8</p>	<p>going [17] - 18:14, 23:20, 35:4, 37:24, 43:9, 47:23, 48:14, 63:11, 66:21, 73:5, 75:5, 92:3, 97:15, 97:23, 97:24, 98:16, 102:4 gone [1] - 19:17 GONZALEZ [1] - 3:4 good [6] - 5:14, 5:15, 48:10, 48:23, 61:13, 89:22 got [11] - 35:9, 47:17, 48:19, 63:23, 65:10, 70:25, 71:9, 71:11, 71:14, 71:18, 71:25 governed [1] - 79:15 governs [1] - 79:18 great [1] - 57:24 ground [6] - 45:14, 45:15, 45:16, 97:9, 99:6, 99:20 guarantee [1] - 7:9 guess [2] - 7:19, 7:22 guilty [1] - 6:5 gutters [3] - 17:5, 26:11, 26:19 guys [3] - 25:16, 40:14, 57:12</p>	<p>100:13 happy [1] - 7:16 hard [1] - 52:2 harness [16] - 54:4, 54:12, 55:6, 97:3, 97:7, 97:11, 97:16, 98:6, 98:8, 98:12, 98:18, 99:7, 99:9, 99:16, 99:19, 99:21 harnessed [1] - 54:10 harnesses [4] - 52:2, 55:12, 55:14, 99:25 has [7] - 13:13, 16:3, 24:16, 59:15, 63:13, 81:2, 95:5 hats [1] - 52:2 Hauppauge [8] - 5:13, 8:8, 11:20, 16:4, 16:7, 16:12, 36:6, 39:11 have [80] - 7:10, 8:21, 9:18, 17:12, 18:6, 19:3, 20:10, 20:17, 23:14, 24:25, 25:2, 25:3, 25:20, 27:3, 27:21, 27:25, 28:20, 29:11, 30:19, 33:14, 34:4, 38:21, 41:7, 41:13, 41:14, 46:18, 46:22, 47:12, 52:10, 53:6, 55:5, 56:3, 56:18, 58:13, 64:4, 65:21, 66:13, 68:24, 69:20, 72:24, 74:17, 77:10, 79:14, 81:5, 82:17, 82:22, 82:25, 83:12, 84:23, 86:3, 89:13, 89:15, 89:18, 90:9, 91:13, 92:15, 92:20, 92:22, 93:5, 93:6, 93:8, 93:17, 93:24, 93:25, 94:6, 94:7, 94:9, 97:11, 97:16, 97:23, 98:15, 98:17, 99:25, 101:18, 102:7, 102:24, 103:24, 104:2, 107:19 have you [14] - 6:4, 6:7, 6:14, 10:5, 11:19, 16:23, 19:17, 78:2, 78:5, 91:23, 100:10, 102:25, 103:12, 103:19 having [2] - 5:3, 105:4 hazard [1] - 93:19 he [53] - 26:18, 48:5, 48:7, 48:22, 48:25, 49:2, 49:21, 63:17, 63:19, 64:16, 64:17, 64:18, 64:19, 64:20, 64:24, 65:2, 65:20, 65:24, 65:25, 66:3, 66:5, 66:6, 66:14,</p>	<p>66:15, 66:16, 66:19, 66:22, 66:24, 67:13, 67:14, 69:6, 72:6, 72:9, 72:11, 74:8, 74:9, 74:12, 74:15, 74:21, 75:2, 83:14, 83:15, 87:24, 99:21, 102:22 he'll [4] - 74:14, 83:15, 83:18, 85:2 he's [1] - 82:23 hear [2] - 71:16, 74:10 heard [2] - 27:25, 103:12 height [5] - 23:21, 69:25, 70:10, 95:8 held [4] - 2:10, 55:18, 77:4, 101:24 HENRY [1] - 3:12 here [1] - 79:20 hereby [2] - 105:4, 107:9 HEREBY [1] - 4:5 herein [1] - 4:7 hereinbefore [2] - 105:11, 107:11 hereunto [1] - 107:19 high [3] - 8:23, 9:2, 10:20 him [21] - 48:9, 48:23, 48:24, 48:25, 63:19, 64:8, 65:8, 65:19, 67:12, 67:15, 68:19, 69:21, 70:20, 71:7, 71:12, 73:16, 74:7, 74:11, 74:15, 89:9 his [11] - 29:2, 34:19, 34:21, 66:2, 68:8, 73:7, 73:15, 87:23, 88:4, 99:21 history [1] - 10:17 hold [3] - 9:6, 77:25, 98:2 holding [1] - 69:12 Home [139] - 7:5, 8:12, 10:18, 10:23, 10:25, 11:5, 14:12, 14:15, 14:16, 14:18, 16:3, 17:2, 17:12, 19:22, 20:2, 20:9, 21:11, 22:24, 23:3, 23:25, 24:10, 24:15, 24:19, 26:2, 26:7, 26:13, 26:14, 26:21, 26:22, 27:12, 27:13, 29:12, 30:20, 34:2, 36:20, 37:4, 37:5, 37:13, 37:24, 38:17, 38:22, 39:2, 39:6, 39:13, 40:7, 41:5, 41:6, 41:10, 41:12, 42:11, 42:16, 43:16, 46:8, 47:3, 47:15, 47:16, 47:19, 49:15, 49:23, 49:24, 51:24, 52:3, 52:5,</p>
<p>G</p> <p>G [1] - 5:2 GALLARDO [1] - 3:4 garage [1] - 45:10 gave [4] - 63:22, 67:14, 72:16, 105:6 general [2] - 103:13, 103:16 generally [9] - 17:16, 17:23, 19:8, 19:16, 19:17, 23:3, 23:14, 23:25, 39:6 generate [6] - 31:21, 75:22, 81:17, 81:19, 82:13, 100:13 generated [10] - 30:19, 31:17, 81:10, 81:22, 82:10, 83:7, 83:9, 85:15, 100:7, 101:13 generates [1] - 22:20 gentleman [9] - 40:22, 66:13, 66:21, 68:25, 70:15, 74:9, 74:22, 87:22, 88:3 Georgia [1] - 36:7 gesture [1] - 7:14 get [20] - 8:16, 17:24, 34:8, 45:5, 51:19, 54:3, 58:3, 63:17, 69:21, 69:22, 83:13, 86:25, 87:3, 92:4, 92:17, 92:25, 93:4, 96:21, 97:8, 102:6 getting [4] - 23:21, 23:22, 76:15, 82:24 GINARTE [1] - 3:4 give [8] - 7:8, 7:19, 7:22, 8:17, 22:15, 55:25, 56:5, 62:14 given [4] - 15:24, 30:22, 105:10, 107:13 gives [2] - 32:19, 80:19 glasses [1] - 48:7 go [22] - 5:23, 11:13, 17:13, 18:25, 19:8, 20:7, 20:24, 25:21, 31:24, 35:18, 36:10, 36:11, 55:5, 56:14, 59:5, 65:8, 71:3, 76:25, 94:2, 96:12, 96:16, 97:16 Go [1] - 34:6 goes [1] - 44:13 goggles [1] - 52:2</p>	<p>H</p> <p>H [1] - 106:2 had [47] - 10:5, 27:20, 32:15, 33:9, 37:24, 38:16, 42:14, 48:7, 48:11, 49:2, 49:23, 53:5, 54:12, 56:11, 57:9, 57:12, 57:24, 59:18, 64:7, 64:21, 64:22, 65:19, 66:4, 68:3, 68:7, 69:6, 69:11, 69:15, 70:9, 71:12, 72:20, 74:20, 74:21, 75:2, 76:14, 78:2, 80:5, 86:16, 89:6, 92:13, 92:21, 97:7, 98:13, 99:21, 103:19 half [1] - 52:17 halfway [1] - 85:17 halted [1] - 72:22 hand [4] - 7:13, 32:23, 101:3, 107:20 happen [2] - 58:17, 73:5 happened [16] - 21:10, 27:17, 40:2, 40:3, 42:4, 42:12, 50:14, 56:14, 58:14, 65:5, 66:16, 70:25, 71:12, 72:14, 83:11, 83:22 happens [2] - 97:21,</p>	<p>happy [1] - 7:16 hard [1] - 52:2 harness [16] - 54:4, 54:12, 55:6, 97:3, 97:7, 97:11, 97:16, 98:6, 98:8, 98:12, 98:18, 99:7, 99:9, 99:16, 99:19, 99:21 harnessed [1] - 54:10 harnesses [4] - 52:2, 55:12, 55:14, 99:25 has [7] - 13:13, 16:3, 24:16, 59:15, 63:13, 81:2, 95:5 hats [1] - 52:2 Hauppauge [8] - 5:13, 8:8, 11:20, 16:4, 16:7, 16:12, 36:6, 39:11 have [80] - 7:10, 8:21, 9:18, 17:12, 18:6, 19:3, 20:10, 20:17, 23:14, 24:25, 25:2, 25:3, 25:20, 27:3, 27:21, 27:25, 28:20, 29:11, 30:19, 33:14, 34:4, 38:21, 41:7, 41:13, 41:14, 46:18, 46:22, 47:12, 52:10, 53:6, 55:5, 56:3, 56:18, 58:13, 64:4, 65:21, 66:13, 68:24, 69:20, 72:24, 74:17, 77:10, 79:14, 81:5, 82:17, 82:22, 82:25, 83:12, 84:23, 86:3, 89:13, 89:15, 89:18, 90:9, 91:13, 92:15, 92:20, 92:22, 93:5, 93:6, 93:8, 93:17, 93:24, 93:25, 94:6, 94:7, 94:9, 97:11, 97:16, 97:23, 98:15, 98:17, 99:25, 101:18, 102:7, 102:24, 103:24, 104:2, 107:19 have you [14] - 6:4, 6:7, 6:14, 10:5, 11:19, 16:23, 19:17, 78:2, 78:5, 91:23, 100:10, 102:25, 103:12, 103:19 having [2] - 5:3, 105:4 hazard [1] - 93:19 he [53] - 26:18, 48:5, 48:7, 48:22, 48:25, 49:2, 49:21, 63:17, 63:19, 64:16, 64:17, 64:18, 64:19, 64:20, 64:24, 65:2, 65:20, 65:24, 65:25, 66:3, 66:5, 66:6, 66:14,</p>	<p>66:15, 66:16, 66:19, 66:22, 66:24, 67:13, 67:14, 69:6, 72:6, 72:9, 72:11, 74:8, 74:9, 74:12, 74:15, 74:21, 75:2, 83:14, 83:15, 87:24, 99:21, 102:22 he'll [4] - 74:14, 83:15, 83:18, 85:2 he's [1] - 82:23 hear [2] - 71:16, 74:10 heard [2] - 27:25, 103:12 height [5] - 23:21, 69:25, 70:10, 95:8 held [4] - 2:10, 55:18, 77:4, 101:24 HENRY [1] - 3:12 here [1] - 79:20 hereby [2] - 105:4, 107:9 HEREBY [1] - 4:5 herein [1] - 4:7 hereinbefore [2] - 105:11, 107:11 hereunto [1] - 107:19 high [3] - 8:23, 9:2, 10:20 him [21] - 48:9, 48:23, 48:24, 48:25, 63:19, 64:8, 65:8, 65:19, 67:12, 67:15, 68:19, 69:21, 70:20, 71:7, 71:12, 73:16, 74:7, 74:11, 74:15, 89:9 his [11] - 29:2, 34:19, 34:21, 66:2, 68:8, 73:7, 73:15, 87:23, 88:4, 99:21 history [1] - 10:17 hold [3] - 9:6, 77:25, 98:2 holding [1] - 69:12 Home [139] - 7:5, 8:12, 10:18, 10:23, 10:25, 11:5, 14:12, 14:15, 14:16, 14:18, 16:3, 17:2, 17:12, 19:22, 20:2, 20:9, 21:11, 22:24, 23:3, 23:25, 24:10, 24:15, 24:19, 26:2, 26:7, 26:13, 26:14, 26:21, 26:22, 27:12, 27:13, 29:12, 30:20, 34:2, 36:20, 37:4, 37:5, 37:13, 37:24, 38:17, 38:22, 39:2, 39:6, 39:13, 40:7, 41:5, 41:6, 41:10, 41:12, 42:11, 42:16, 43:16, 46:8, 47:3, 47:15, 47:16, 47:19, 49:15, 49:23, 49:24, 51:24, 52:3, 52:5,</p>

PALACIOS

<p>52:10, 52:11, 54:20, 54:25, 55:8, 57:9, 57:10, 57:16, 57:17, 58:9, 58:22, 59:2, 60:11, 60:24, 61:24, 62:25, 63:21, 64:18, 69:9, 69:10, 73:21, 74:4, 75:22, 76:24, 77:7, 78:11, 79:4, 79:5, 79:8, 79:13, 79:14, 79:24, 80:2, 80:11, 81:24, 82:17, 82:21, 84:5, 84:10, 84:16, 84:19, 84:21, 85:25, 86:2, 86:8, 86:12, 87:20, 88:17, 88:19, 88:21, 89:25, 90:10, 90:16, 90:17, 92:14, 92:21, 92:24, 93:6, 93:8, 93:25, 94:9, 94:19, 95:2, 95:10, 100:6, 101:13, 102:11, 102:18, 103:2, 103:11, 103:16, 106:20, 106:22</p> <p>HOME [6] - 1:8, 1:10, 1:13, 2:6, 3:10, 3:15</p> <p>home [52] - 11:2, 11:4, 12:9, 22:8, 24:2, 24:21, 25:10, 28:5, 29:8, 31:13, 32:2, 32:16, 32:22, 33:9, 34:23, 35:5, 35:7, 35:11, 36:18, 36:20, 37:3, 37:14, 37:16, 37:19, 39:20, 42:4, 42:21, 42:23, 43:2, 49:16, 49:22, 50:2, 50:13, 51:8, 55:9, 60:12, 61:13, 66:24, 67:20, 67:23, 68:2, 68:11, 69:4, 77:8, 81:7, 83:22, 93:12, 95:6, 95:19, 96:2, 102:3, 102:18</p> <p>homeowner [8] - 30:12, 30:14, 30:20, 50:13, 87:20, 103:11, 106:20, 106:22</p> <p>homes [9] - 13:10, 17:9, 27:18, 49:17, 50:7, 57:18, 59:2, 61:17, 69:25</p> <p>hospital [7] - 64:22, 66:10, 71:15, 74:9, 74:13, 74:16, 74:23</p> <p>hour [2] - 9:15, 52:17</p> <p>hours [1] - 47:10</p> <p>house [23] - 22:10, 37:2, 38:9, 38:19, 45:19, 45:20, 51:11, 51:12, 51:20, 53:11, 53:14,</p>	<p>53:15, 53:24, 53:25, 54:11, 72:18, 87:24, 88:5, 88:12, 88:14, 88:15, 96:4, 96:6</p> <p>houses [2] - 22:8, 27:14</p> <p>how [26] - 13:13, 13:20, 22:5, 23:19, 25:11, 32:2, 33:11, 42:22, 43:16, 48:13, 52:15, 57:22, 58:3, 63:23, 65:5, 66:15, 66:16, 71:10, 73:9, 89:8, 91:9, 94:17, 95:10, 97:6, 97:10, 98:4</p> <p>how are [1] - 25:14</p> <p>how did [2] - 31:7, 55:23</p> <p>how do [3] - 50:16, 54:9, 72:4</p> <p>how is [1] - 17:20</p> <p>how many [9] - 6:14, 21:13, 22:7, 24:19, 24:23, 38:25, 41:3, 41:9, 51:21</p> <p>how often [1] - 16:6</p> <p>huh [5] - 41:17, 43:4, 57:19, 63:3, 80:9</p> <p>hurt [2] - 71:11, 71:14</p>	<p>102:15, 102:21, 102:24, 103:8, 103:24, 104:2, 105:2, 105:4, 105:5, 105:8, 106:2, 106:10, 107:2, 107:7, 107:14, 107:16, 107:19</p> <p>I'll [12] - 6:22, 7:15, 9:18, 13:15, 24:22, 24:25, 33:14, 41:7, 41:13, 83:19, 87:15, 89:17</p> <p>I'm [15] - 5:16, 8:15, 10:19, 12:17, 16:10, 16:13, 21:16, 26:19, 46:21, 67:10, 82:12, 82:15, 87:25, 89:23, 98:4</p> <p>ice [3] - 29:23, 44:11, 44:20</p> <p>identification [1] - 77:17</p> <p>identity [2] - 63:9, 64:17</p> <p>if [71] - 4:12, 4:15, 7:14, 7:19, 7:23, 9:23, 10:2, 19:14, 20:20, 20:24, 21:8, 22:19, 24:15, 25:15, 26:16, 35:2, 41:13, 41:14, 42:20, 43:10, 46:8, 46:18, 46:22, 48:11, 48:25, 52:22, 53:5, 55:3, 56:17, 59:17, 60:2, 61:6, 63:10, 64:15, 64:17, 64:18, 64:23, 66:3, 67:24, 69:15, 70:3, 70:6, 70:19, 79:11, 83:17, 83:21, 84:21, 85:22, 86:25, 87:3, 89:6, 90:2, 90:15, 92:24, 93:9, 93:16, 95:7, 97:6, 98:23, 99:5, 99:9, 99:11, 99:21, 101:5, 101:8, 101:10, 102:3, 102:8, 103:5</p> <p>If [1] - 85:18</p> <p>immediately [1] - 84:18</p> <p>important [1] - 65:25</p> <p>improper [1] - 52:22</p> <p>Improvement [40] - 26:3, 26:14, 26:22, 27:12, 37:5, 37:13, 38:22, 40:7, 41:5, 41:11, 42:11, 42:16, 43:17, 46:9, 47:3, 49:15, 49:24, 55:9, 57:10, 57:17, 58:9, 58:22, 59:3, 61:24, 69:11, 79:5, 79:13, 80:2, 82:18, 82:21, 84:5, 84:17, 84:21, 86:9, 86:13, 88:21, 89:25, 90:10, 92:24, 93:25</p>	<p>IMPROVEMENT [2] - 1:13, 3:15</p> <p>Improvement@live.com [1] - 90:18</p> <p>Improvement@live.com" [1] - 90:16</p> <p>in [136] - 5:17, 6:8, 6:24, 8:24, 9:7, 10:6, 10:8, 10:23, 11:20, 12:2, 12:5, 12:9, 12:22, 13:3, 13:4, 15:4, 16:3, 16:6, 16:12, 16:13, 16:14, 16:18, 17:24, 18:8, 19:5, 19:20, 20:18, 20:24, 21:7, 21:21, 21:22, 22:9, 22:11, 23:9, 24:20, 24:23, 25:2, 25:4, 25:8, 25:13, 25:16, 25:21, 25:23, 26:4, 27:8, 28:6, 29:14, 31:22, 35:10, 35:17, 35:24, 36:6, 36:7, 36:12, 36:20, 37:3, 37:9, 37:15, 37:19, 37:22, 38:9, 38:12, 39:2, 39:3, 39:4, 39:7, 39:11, 39:12, 39:14, 39:20, 40:5, 42:15, 42:21, 43:8, 44:17, 45:16, 47:13, 47:22, 49:8, 50:13, 54:5, 54:10, 54:19, 57:3, 57:22, 58:14, 63:20, 63:23, 64:2, 64:3, 64:14, 65:4, 67:19, 67:23, 68:12, 72:8, 72:18, 72:19, 72:25, 73:3, 74:12, 74:15, 77:8, 78:20, 80:8, 80:16, 80:17, 81:7, 83:3, 83:11, 84:15, 84:23, 85:21, 87:18, 88:13, 88:15, 89:7, 91:2, 91:5, 91:18, 91:22, 93:12, 95:21, 96:5, 97:22, 98:2, 98:18, 98:21, 100:7, 100:15, 101:9, 107:17</p> <p>IN [1] - 107:19</p> <p>INC [4] - 1:8, 1:10, 2:7, 3:10</p> <p>incident [7] - 75:23, 100:8, 100:11, 100:22, 100:23, 101:6, 101:12</p> <p>increase [1] - 91:18</p> <p>indicate [2] - 100:5, 101:7</p> <p>indicated [1] - 99:13</p> <p>indicates [1] - 18:17</p> <p>indication [1] - 85:22</p>
--	---	---	---

PALACIOS

<p>individual [1] - 64:24 individuals [3] - 17:13, 37:9, 40:6 industry [1] - 11:4 INFORMATION [2] - 106:16, 106:17 information [11] - 63:18, 65:24, 66:16, 67:9, 67:12, 67:15, 71:2, 82:5, 82:7, 100:14, 101:2 informed [1] - 50:17 informs [1] - 31:10 initial [4] - 29:13, 33:8, 96:8, 96:15 initially [2] - 47:8, 47:9 injured [6] - 70:16, 71:18, 75:5, 87:22, 87:24, 88:3 injuries [2] - 66:12, 66:14 input [1] - 23:18 inserted [1] - 98:11 inspect [1] - 56:15 inspection [2] - 14:4, 59:8 inspections [1] - 59:23 inspector [3] - 13:23, 14:3, 15:10 inspectors [1] - 15:4 install [8] - 15:6, 15:21, 29:23, 29:25, 44:12, 84:6, 84:9 installation [16] - 13:12, 15:11, 15:15, 15:19, 17:3, 18:12, 19:6, 20:10, 20:14, 22:4, 22:25, 23:4, 26:19, 28:15, 29:3 installations [4] - 8:12, 24:2, 24:10, 24:21 installed [5] - 43:6, 44:21, 44:22, 59:12, 59:14 installer [4] - 19:19, 19:21, 36:12, 36:15 installers [4] - 14:6, 14:19, 15:8, 15:20 instance [2] - 20:22, 83:5 instances [2] - 19:20, 83:12 instruction [1] - 8:14 instructions [2] - 7:7, 7:8 insulation [1] - 17:6 interested [1] - 107:17 into [15] - 20:3, 20:8, 45:10, 46:5, 72:7, 79:12, 81:20, 82:7, 85:17, 87:14, 91:10, 95:25, 98:16, 106:19, 106:21</p>	<p>introduce [1] - 18:21 introduced [1] - 98:15 investigation [2] - 73:10, 73:13 invoices [1] - 60:25 invoicing [2] - 60:19, 60:20 involve [2] - 12:24, 57:2 involved [8] - 12:25, 23:9, 23:20, 27:8, 39:2, 39:7, 39:13, 71:9 involvement [3] - 25:8, 29:4, 72:25 IS [2] - 4:5, 4:20 is [110] - 5:16, 5:20, 5:21, 7:18, 9:10, 9:24, 10:2, 10:13, 11:23, 17:15, 17:18, 17:24, 17:25, 18:11, 19:14, 20:5, 21:2, 21:8, 21:14, 21:21, 21:23, 22:8, 22:22, 23:16, 23:19, 24:3, 25:9, 25:10, 25:18, 26:21, 30:18, 31:10, 31:21, 32:2, 33:24, 34:5, 34:6, 34:11, 34:19, 35:3, 39:6, 39:13, 39:18, 40:25, 44:13, 44:21, 44:22, 44:23, 47:23, 48:13, 51:7, 52:12, 54:18, 54:23, 56:24, 58:5, 58:7, 59:11, 59:12, 59:14, 60:6, 61:12, 62:9, 62:18, 62:25, 69:5, 71:14, 72:18, 72:19, 78:9, 79:7, 79:17, 79:18, 79:19, 80:15, 80:18, 81:18, 81:19, 81:22, 81:25, 82:4, 82:5, 82:10, 83:25, 84:25, 85:15, 85:21, 89:22, 91:15, 93:13, 95:7, 96:2, 97:15, 97:17, 97:21, 98:8, 98:9, 98:10, 98:17, 98:19, 100:13, 100:18, 100:20, 100:22, 100:25, 101:4, 102:22, 105:9, 107:10, 107:12 is it your [5] - 67:18, 84:4, 84:15, 87:21, 103:15 is that [11] - 19:21, 30:22, 31:18, 33:16, 33:19, 36:21, 52:9, 59:25, 69:23, 86:7, 91:5 is there [5] - 21:17, 22:23, 23:24, 42:23,</p>	<p>54:20 Island [3] - 3:16, 8:13, 11:20 isn't [1] - 21:3 issue [2] - 89:7, 93:19 issued [2] - 73:16, 80:11 issues [5] - 48:17, 58:24, 72:12, 86:12, 89:4 it [104] - 9:13, 9:15, 10:10, 11:9, 12:25, 17:18, 17:25, 21:24, 24:8, 27:25, 28:10, 29:6, 29:11, 29:12, 30:25, 31:4, 31:21, 32:2, 38:22, 39:23, 42:24, 43:21, 45:13, 48:6, 48:14, 49:5, 50:6, 51:13, 51:14, 53:22, 54:7, 55:23, 56:15, 57:21, 57:22, 58:4, 58:17, 59:5, 61:12, 62:14, 62:24, 62:25, 63:6, 64:11, 65:24, 66:15, 66:16, 67:14, 67:17, 68:2, 68:10, 69:4, 75:16, 76:3, 77:21, 77:22, 77:24, 78:7, 79:4, 79:7, 80:11, 80:19, 82:20, 82:23, 83:15, 83:18, 83:19, 84:24, 84:25, 87:4, 89:8, 89:17, 90:4, 90:15, 91:7, 91:15, 91:16, 91:24, 92:3, 92:15, 92:20, 92:22, 93:9, 93:23, 94:6, 94:7, 95:6, 95:17, 96:2, 97:20, 97:23, 98:6, 99:3, 100:14, 100:20, 100:25, 101:4, 101:10, 101:11, 101:14, 101:15, 101:18 IT [2] - 4:5, 4:20 it's [22] - 5:19, 9:12, 10:14, 18:17, 19:24, 21:5, 23:11, 24:3, 25:9, 29:16, 31:17, 37:21, 43:25, 54:24, 55:13, 61:14, 81:20, 82:4, 87:4, 95:7, 98:13, 100:21 items [2] - 80:19, 83:17 itself [3] - 20:20, 23:23, 56:3</p>	<p>job [38] - 12:20, 14:2, 20:20, 21:11, 22:6, 30:4, 30:25, 31:10, 35:11, 47:11, 48:25, 51:18, 58:23, 61:5, 62:9, 65:23, 66:5, 71:7, 71:8, 72:22, 73:5, 73:8, 82:4, 91:2, 91:10, 91:16, 95:13, 95:14, 95:18, 96:9, 96:10, 96:14, 96:17, 96:18, 96:20, 97:10, 99:7, 99:14 jobs [5] - 14:4, 14:5, 27:20, 36:4, 95:4 jolt [1] - 66:25 JORGE [3] - 1:24, 2:7, 105:15 Jorge [2] - 5:10, 5:21 JR [1] - 3:12 Judge [1] - 4:13 just [25] - 7:17, 7:22, 8:15, 9:8, 10:10, 22:18, 23:21, 26:16, 33:24, 35:16, 40:14, 40:21, 43:11, 45:7, 56:5, 61:11, 64:20, 65:14, 66:15, 68:17, 73:4, 73:14, 77:19, 84:25</p>
K			
<p>K [1] - 102:21 KAREN [2] - 107:7, 107:23 Karen [1] - 2:13 keep [3] - 7:12, 63:2, 88:17 kept [3] - 38:12, 59:22, 73:3 kind [7] - 6:8, 17:3, 17:23, 60:15, 61:4, 79:15, 97:19 KINGS [1] - 107:5 know [51] - 7:23, 9:23, 9:25, 10:2, 11:25, 20:2, 21:13, 23:22, 24:15, 26:6, 26:25, 28:10, 30:14, 31:4, 31:16, 32:14, 34:5, 34:13, 35:2, 36:23, 36:25, 37:11, 38:7, 38:25, 40:6, 40:9, 41:3, 43:10, 46:8, 46:12, 48:11, 50:16, 54:9, 56:8, 56:23, 58:7, 69:16, 72:4, 73:9, 74:14, 75:25, 79:11, 79:25, 80:4, 81:15, 90:3, 100:17, 101:11, 102:13,</p>			
J			
<p>J [2] - 5:2, 40:11 Jersey [1] - 13:8 Jesus [1] - 78:23</p>			

PALACIOS

102:15, 103:5 knowledge [1] - 96:25 known [1] - 80:12 KOPANYI [2] - 107:7, 107:23	90:3 let's [1] - 70:4 level [17] - 10:24, 43:5, 55:4, 93:2, 93:3, 93:4, 93:5, 94:2, 94:4, 98:23, 99:7, 99:10, 99:17, 99:21, 99:24, 102:7 levels [5] - 53:24, 92:3, 92:14, 95:15, 95:16 Liberty [2] - 2:12, 3:11 license [1] - 24:16 licensed [1] - 24:11 licensing [3] - 24:5, 25:17, 25:18 like [20] - 7:14, 17:13, 26:11, 28:21, 42:3, 45:23, 48:5, 56:12, 57:11, 57:16, 59:25, 60:9, 60:13, 60:18, 73:19, 75:3, 76:6, 80:21, 88:17, 101:18 limbs [1] - 75:3 limited [2] - 95:21, 95:23 line [9] - 80:19, 83:16, 97:22, 98:9, 98:10, 98:15, 98:17, 98:20, 98:22 list [2] - 23:24, 57:6 listed [1] - 21:5 little [2] - 32:14, 51:11 live [5] - 66:23, 66:25, 67:18, 67:19, 68:12 LIVE [1] - 90:20 LLP [3] - 2:11, 3:4, 3:8 local [2] - 63:8, 72:18 located [4] - 25:11, 28:5, 37:15, 72:19 location [4] - 91:22, 91:25, 92:13, 99:23 locations [1] - 11:24 lock [1] - 97:25 Loja [3] - 40:10, 78:23 Long [2] - 8:13, 11:20 long [8] - 13:13, 13:20, 32:2, 48:13, 48:15, 52:15, 58:11, 73:9 look [1] - 62:16 looked [1] - 48:5 looking [2] - 42:20, 79:20 loose [1] - 43:22 lot [3] - 21:15, 81:15, 91:12 Lynch [1] - 2:11 LYNCH [1] - 3:8	mail [12] - 17:22, 17:24, 31:9, 31:12, 31:15, 31:17, 31:24, 83:2, 83:3, 83:4, 90:9, 90:14 main [3] - 43:7, 69:8, 99:4 maintain [3] - 60:11, 76:5, 102:11 maintained [3] - 60:8, 101:12, 101:13 maintaining [1] - 61:11 make [16] - 14:21, 18:22, 21:7, 47:23, 56:21, 59:5, 59:10, 59:11, 59:13, 59:14, 62:16, 66:8, 69:24, 74:11, 83:15, 83:20 making [2] - 15:6, 33:7 man [1] - 48:6 management [4] - 76:6, 76:8, 100:6, 101:14 manager [10] - 12:15, 12:22, 13:12, 15:12, 15:16, 15:19, 15:24, 15:25, 28:15, 29:3 manuals [1] - 102:12 manufactured [2] - 14:12, 14:14 many [2] - 57:10, 89:16 mark [1] - 77:13 marked [4] - 39:16, 77:16, 77:19, 77:20 marketing [1] - 20:11 marriage [1] - 107:16 master [1] - 79:19 material [3] - 43:13, 44:23, 57:6 materials [21] - 14:14, 14:19, 14:22, 23:16, 29:9, 36:17, 36:19, 36:24, 38:2, 38:5, 38:7, 44:16, 45:17, 47:18, 47:20, 49:2, 49:3, 84:11, 85:24, 92:4, 94:21 matter [2] - 16:23, 107:18 may [9] - 4:10, 4:14, 8:14, 8:21, 56:4, 66:13, 89:18, 101:7, 102:24 maybe [2] - 68:7, 101:2 me [20] - 7:15, 8:15, 8:17, 55:25, 56:5, 56:16, 63:8, 63:10, 63:11, 63:23, 64:16, 64:19, 65:21, 67:3, 72:6, 72:16, 74:14, 90:3, 105:10, 105:18 mean [8] - 14:7, 23:13, 57:15, 70:2, 81:23, 91:18, 92:3, 93:11	meaning [1] - 95:20 measured [1] - 51:18 measurement [7] - 7:21, 21:18, 21:25, 29:8, 31:2, 31:11, 32:15 measurements [21] - 14:6, 14:8, 14:21, 15:5, 18:3, 18:17, 18:24, 19:4, 20:25, 21:17, 21:22, 22:5, 30:24, 32:10, 33:13, 33:16, 33:19, 82:7, 82:8, 90:23, 96:15 measuring [1] - 14:9 mechanical [1] - 45:5 meet [2] - 44:20, 62:10 meetings [1] - 77:4 members [4] - 51:21, 69:11, 73:15, 76:20 mention [10] - 65:2, 65:3, 66:3, 66:11, 66:14, 66:18, 67:8, 67:11, 68:16, 75:4 mentioned [15] - 12:10, 20:15, 23:5, 26:6, 32:2, 39:10, 46:4, 46:16, 64:24, 66:15, 67:16, 68:6, 68:17, 74:21, 86:16 mentions [1] - 80:11 message [1] - 18:16 met [5] - 64:8, 64:12, 65:25, 71:5, 71:7 Michael [1] - 89:23 MICHAEL [2] - 3:6, 3:17 mid [1] - 28:11 middle [1] - 80:8 Mike [3] - 5:16, 89:13, 89:18 mind [1] - 42:20 minutes [2] - 52:18, 53:2 modifications [2] - 33:8, 44:7 moment [1] - 7:18 month [2] - 27:14, 27:16 months [3] - 27:3, 27:19, 41:3 more [5] - 17:11, 41:14, 41:15, 41:20, 92:4 morning [4] - 5:14, 5:15, 38:3, 91:7 move [1] - 21:9 moved [1] - 11:2 movements [1] - 7:14 moving [2] - 85:2, 95:24 MR [44] - 5:7, 6:16, 6:20, 27:23, 30:5, 41:18, 47:7, 47:9, 49:10, 49:19, 55:16, 67:2,
L			
L [6] - 3:6, 4:2, 5:2, 40:11, 105:2 L-O-J-A [1] - 40:11 labor [2] - 57:8, 58:5 labors [1] - 23:19 ladder [44] - 54:3, 66:20, 66:21, 66:22, 68:25, 69:2, 69:6, 69:7, 69:16, 69:17, 69:22, 70:4, 70:6, 70:8, 70:16, 76:21, 76:22, 92:16, 92:25, 93:4, 93:14, 93:16, 94:2, 94:3, 94:11, 94:12, 94:16, 94:20, 94:22, 95:3, 95:5, 95:10, 95:22, 95:24, 97:4, 97:8, 97:12, 97:16, 99:6, 99:20, 102:4, 102:9 ladders [12] - 45:2, 45:7, 53:10, 53:16, 53:19, 55:8, 55:10, 69:12, 69:25, 70:8, 70:10, 76:16 landing [1] - 95:8 languages [2] - 12:3, 12:7 lanyard [3] - 97:19, 98:2, 98:12 lanyards [1] - 52:2 last [11] - 8:14, 10:6, 27:4, 27:5, 34:20, 34:21, 49:11, 67:2, 78:13, 86:19, 92:9 law [2] - 74:3, 89:23 lawsuit [1] - 5:18 layers [2] - 29:23, 43:20 lead [4] - 9:9, 10:9, 10:14, 10:15 leak [3] - 29:24, 44:11, 44:21 learn [2] - 17:17, 63:4 learning [1] - 75:20 least [2] - 41:14, 65:25 leave [1] - 55:23 left [11] - 22:9, 38:16, 45:18, 55:24, 58:20, 68:2, 68:4, 95:19, 96:3, 96:4, 102:5 length [3] - 22:10, 22:14, 32:17 let [4] - 8:15, 31:4, 74:14,			
	M		
	made [9] - 29:13, 30:18, 33:24, 42:10, 42:14, 49:2, 60:17, 65:7, 66:22		

PALACIOS

67:7, 68:13, 68:21, 70:22, 71:19, 73:24, 77:10, 77:12, 77:13, 87:5, 87:9, 87:11, 87:13, 87:15, 89:10, 89:13, 89:15, 89:17, 89:21, 92:8, 97:13, 98:25, 100:2, 101:20, 101:22, 102:2, 103:8, 103:24, 104:2, 106:12, 106:13, 106:14 much [4] - 8:24, 23:19, 33:11, 91:20 multiple [4] - 39:7, 40:20, 92:14, 95:15 multiplier [7] - 22:13, 22:14, 22:15, 32:18, 32:19, 91:6, 91:9 multipliers [1] - 22:11 My [1] - 5:16 my [21] - 6:16, 6:21, 7:12, 11:23, 27:23, 47:7, 49:19, 63:9, 63:13, 63:22, 64:17, 68:14, 68:21, 73:24, 83:18, 89:10, 89:22, 90:3, 107:20 myself [3] - 22:22, 60:19, 65:14	28:6, 107:8 new [3] - 21:24, 36:19, 44:16 NEW [2] - 1:2, 107:4 newly [1] - 43:6 next [4] - 35:17, 44:9, 51:8, 74:13 nine [1] - 56:18 no [105] - 5:25, 6:6, 7:18, 8:5, 9:3, 10:4, 10:7, 12:8, 12:14, 16:21, 16:25, 22:18, 23:11, 26:24, 30:15, 31:6, 32:13, 34:10, 37:2, 37:11, 38:6, 38:23, 39:4, 40:21, 40:24, 42:13, 42:19, 45:7, 46:2, 46:7, 46:11, 46:13, 46:25, 50:11, 51:23, 52:21, 53:4, 55:22, 57:15, 58:12, 58:16, 58:19, 58:25, 60:4, 60:10, 60:23, 62:2, 62:5, 63:17, 63:19, 64:3, 65:6, 65:12, 65:14, 65:17, 68:23, 69:14, 70:13, 70:18, 72:3, 73:14, 75:7, 75:13, 75:21, 76:4, 76:13, 76:17, 76:23, 77:3, 77:6, 77:9, 77:12, 79:9, 79:10, 79:23, 80:3, 81:12, 82:4, 83:23, 86:14, 86:18, 86:22, 88:10, 88:19, 89:5, 92:7, 92:19, 92:22, 92:23, 94:5, 94:8, 94:13, 95:12, 96:13, 96:24, 101:7, 101:20, 103:23, 103:25, 107:17 No [1] - 1:6 normally [2] - 37:21, 56:18 not [51] - 10:7, 16:12, 20:21, 21:5, 26:16, 39:11, 41:14, 43:11, 46:12, 46:19, 46:23, 52:20, 54:23, 55:4, 56:4, 56:10, 56:24, 57:25, 59:18, 59:19, 59:24, 65:2, 65:21, 68:21, 69:21, 70:6, 70:12, 70:14, 70:15, 70:20, 73:17, 73:24, 74:2, 75:7, 86:16, 88:19, 89:16, 91:20, 92:20, 93:6, 93:8, 93:24, 94:6, 94:7, 96:13, 98:4, 99:11,	101:10, 102:13, 102:15, 107:14 Notary [3] - 2:14, 5:4, 107:7 NOTARY [1] - 105:22 note [7] - 6:16, 6:21, 27:23, 47:7, 49:19, 68:14, 89:10 nothing [1] - 74:25 notified [1] - 34:10 now [7] - 13:16, 15:11, 15:15, 46:3, 61:23, 79:21, 89:18 number [4] - 41:13, 63:22, 78:14, 101:8 NUMBER [1] - 106:6 O O [5] - 4:2, 5:2, 40:11, 105:2 oath [2] - 4:12, 7:25 objected [2] - 93:7, 93:9 objection [13] - 6:17, 6:21, 27:24, 47:8, 49:20, 68:14, 68:22, 70:22, 73:25, 89:11, 97:13, 98:25, 100:2 objections [1] - 4:21 observe [9] - 50:20, 51:15, 52:19, 53:2, 53:9, 55:3, 70:14, 70:15, 89:3 observed [7] - 53:5, 53:12, 59:17, 68:3, 69:11, 86:16, 88:20 obstructs [1] - 93:13 obtain [3] - 10:8, 57:5, 62:17 obtained [2] - 35:24, 101:2 obviously [2] - 22:9, 54:6 occasions [1] - 26:15 occur [1] - 83:10 occurred [4] - 27:12, 28:3, 70:12, 96:23 October [3] - 1:17, 2:2, 107:20 OF [4] - 1:2, 1:24, 107:4, 107:5 of [241] - 2:5, 2:9, 2:10, 2:14, 4:8, 4:9, 4:13, 4:14, 4:16, 4:17, 4:22, 5:4, 6:2, 6:4, 6:8, 6:24, 7:3, 7:8, 7:11, 7:21, 7:24, 8:7, 10:7, 11:4, 14:4, 14:15, 15:6, 15:8, 15:20, 16:23, 17:3, 17:17, 17:23, 19:2, 20:18, 20:22, 21:15,	22:10, 22:17, 23:4, 23:10, 23:16, 23:24, 24:9, 24:13, 24:17, 24:24, 25:19, 26:3, 26:16, 28:12, 28:17, 29:13, 29:17, 29:20, 29:22, 29:23, 30:3, 32:3, 32:20, 34:6, 35:4, 36:2, 36:3, 36:8, 36:10, 36:11, 36:24, 37:8, 37:14, 37:19, 38:9, 38:24, 39:11, 39:13, 40:6, 40:13, 40:23, 41:5, 41:25, 42:2, 42:9, 42:21, 43:9, 43:20, 43:24, 44:19, 45:8, 45:12, 45:19, 46:3, 46:15, 48:24, 49:3, 51:2, 51:5, 51:11, 51:12, 51:13, 51:14, 51:22, 53:10, 53:13, 53:15, 53:23, 53:25, 56:5, 56:6, 56:18, 56:22, 57:3, 57:7, 57:22, 58:5, 58:14, 58:23, 59:11, 59:13, 59:18, 59:22, 60:15, 61:4, 61:16, 62:6, 62:7, 64:11, 65:15, 67:9, 67:12, 68:10, 69:8, 69:22, 70:8, 70:20, 71:11, 71:17, 72:11, 72:18, 73:13, 73:20, 74:3, 74:13, 75:14, 75:20, 76:2, 77:11, 77:17, 77:23, 79:8, 79:15, 79:24, 80:7, 80:8, 80:14, 80:19, 80:21, 81:10, 81:15, 82:6, 82:20, 83:6, 84:7, 84:15, 85:10, 85:23, 86:7, 86:25, 87:4, 87:19, 88:5, 88:12, 88:13, 88:15, 88:16, 89:8, 89:23, 90:2, 90:24, 91:10, 91:12, 91:13, 91:14, 91:17, 91:19, 91:21, 91:22, 92:3, 92:14, 92:16, 93:15, 93:20, 93:21, 94:18, 95:6, 95:9, 95:15, 95:16, 95:18, 95:19, 96:4, 96:16, 96:18, 96:20, 97:2, 97:19, 98:2, 98:10, 98:11, 98:12, 98:22, 99:19, 100:13, 100:18, 100:20, 100:25, 101:17, 102:13, 102:15, 102:16, 102:17, 102:18, 103:10,
N N [4] - 3:2, 4:2, 105:2, 106:10 nails [2] - 43:22, 43:24 name [21] - 5:8, 5:16, 5:21, 30:16, 30:17, 34:6, 34:19, 34:20, 34:21, 40:14, 40:16, 40:23, 40:24, 63:9, 63:22, 65:2, 65:15, 72:17, 78:19, 89:22, 102:16 names [1] - 5:24 nature [1] - 58:6 nearby [2] - 25:11, 36:13 need [3] - 7:16, 87:3, 97:22 needed [3] - 65:21, 83:8, 90:11 needs [1] - 21:3 negotiate [1] - 79:22 negotiated [1] - 79:25 negotiations [1] - 20:18 neighboring [3] - 22:8, 51:8, 96:2 New [17] - 2:12, 2:13, 2:14, 3:6, 3:11, 3:16, 5:4, 5:13, 8:8, 13:7, 13:8, 24:13, 24:17,			

PALACIOS

<p>103:12, 104:5, 105:10, 105:19, 107:8, 107:12, 107:15, 107:17, 107:20</p> <p>off [20] - 10:19, 22:17, 54:14, 54:22, 55:4, 55:6, 55:16, 55:17, 62:12, 62:20, 62:23, 62:24, 63:25, 69:22, 93:15, 96:2, 101:22, 101:23, 102:9</p> <p>off-the-record [2] - 55:17, 101:23</p> <p>offer [1] - 17:5</p> <p>office [11] - 8:11, 11:20, 16:3, 16:7, 16:12, 31:23, 36:2, 36:5, 39:11, 72:17, 100:15</p> <p>officer [14] - 50:18, 63:17, 64:5, 64:12, 65:3, 65:16, 66:3, 66:11, 66:17, 67:8, 67:11, 67:17, 71:6, 72:6</p> <p>officers [1] - 18:8</p> <p>offices [1] - 2:10</p> <p>offs [1] - 54:13</p> <p>oh [1] - 57:15</p> <p>okay [2] - 78:15, 90:6</p> <p>Okay [2] - 15:13, 64:14</p> <p>on [95] - 11:2, 15:7, 18:15, 19:8, 21:5, 23:17, 26:15, 26:18, 26:22, 27:13, 27:18, 29:8, 29:9, 31:8, 35:5, 35:11, 35:19, 37:23, 38:9, 38:14, 42:2, 42:6, 44:20, 45:12, 47:18, 49:16, 49:21, 50:25, 51:3, 51:11, 51:14, 52:10, 53:18, 53:25, 54:21, 56:11, 57:7, 57:18, 58:9, 59:3, 62:20, 62:24, 63:11, 63:18, 65:23, 66:7, 66:16, 68:2, 69:5, 69:9, 74:11, 76:19, 78:11, 78:12, 79:24, 80:7, 83:6, 83:22, 83:23, 83:25, 85:7, 85:16, 90:24, 92:16, 92:17, 93:3, 93:21, 94:3, 95:4, 95:18, 96:8, 96:14, 96:16, 96:18, 96:25, 97:7, 97:9, 97:17, 97:18, 97:19, 97:20, 97:25, 98:11, 98:12, 98:13, 98:14, 99:7, 99:10, 99:14, 99:15, 99:17, 99:24, 102:4, 102:5, 102:9</p> <p>once [13] - 6:18, 29:6,</p>	<p>31:20, 34:11, 43:24, 48:17, 62:9, 74:15, 81:19, 82:8, 83:14, 93:2</p> <p>one [26] - 8:14, 22:22, 26:3, 27:7, 35:6, 40:21, 41:5, 42:18, 45:12, 49:16, 53:23, 58:10, 59:3, 60:13, 63:19, 69:6, 70:6, 70:16, 70:17, 73:2, 74:18, 76:21, 79:14, 79:17, 92:16, 100:12</p> <p>ones [3] - 20:7, 61:6, 69:13</p> <p>only [10] - 7:13, 20:20, 23:11, 35:6, 48:13, 49:16, 49:22, 52:3, 84:6, 93:9</p> <p>onto [4] - 54:3, 77:25, 98:8, 98:9</p> <p>opened [1] - 72:20</p> <p>openings [1] - 44:5</p> <p>opportunity [2] - 62:15, 78:3</p> <p>or [118] - 6:5, 6:25, 7:15, 9:7, 9:14, 9:21, 11:20, 14:13, 16:19, 17:9, 17:10, 17:13, 19:18, 19:22, 23:5, 23:21, 23:22, 24:7, 25:11, 25:20, 26:16, 31:18, 32:25, 33:2, 35:14, 35:21, 37:19, 37:22, 38:12, 41:4, 41:15, 41:18, 41:20, 42:15, 42:23, 43:10, 44:6, 45:4, 45:5, 45:9, 45:10, 45:18, 45:24, 46:5, 46:12, 47:14, 48:5, 48:20, 49:8, 49:17, 52:13, 53:13, 54:15, 56:3, 58:5, 58:24, 59:18, 61:13, 61:22, 62:13, 62:16, 64:5, 64:6, 66:4, 68:7, 68:15, 68:19, 70:5, 71:3, 75:2, 75:3, 75:6, 75:23, 76:7, 77:23, 79:14, 79:15, 80:15, 81:13, 82:3, 83:3, 84:6, 86:12, 86:24, 87:8, 88:12, 89:4, 89:7, 90:4, 90:10, 91:22, 91:23, 95:15, 97:20, 98:14, 98:19, 100:11, 100:18, 100:22, 100:23, 100:25, 101:3, 101:7, 101:12, 102:5, 102:14, 103:21, 107:16</p> <p>orange [1] - 52:13</p> <p>Order [1] - 2:9</p>	<p>order [29] - 14:18, 22:12, 29:9, 35:11, 36:15, 36:16, 36:23, 46:5, 80:12, 80:15, 80:16, 80:18, 81:6, 81:11, 81:17, 81:18, 81:22, 81:25, 82:10, 82:16, 83:15, 84:18, 86:20, 86:25, 87:3, 87:10, 106:18</p> <p>orders [2] - 82:13, 83:7</p> <p>original [2] - 4:9, 4:17</p> <p>originally [1] - 51:17</p> <p>Oser [2] - 5:12, 8:7</p> <p>OSHA [15] - 9:8, 9:10, 11:13, 71:9, 72:2, 72:3, 72:7, 72:15, 72:25, 73:16, 73:17, 73:22, 74:5, 76:10, 85:15</p> <p>other [34] - 5:23, 9:7, 12:3, 12:7, 16:8, 16:9, 16:11, 23:6, 23:7, 24:14, 27:14, 27:18, 29:25, 40:13, 42:17, 44:15, 45:5, 48:10, 49:17, 50:6, 56:11, 57:18, 58:10, 59:2, 62:5, 69:7, 69:13, 72:24, 73:22, 76:18, 76:20, 77:7, 100:18</p> <p>others [1] - 26:16</p> <p>our [3] - 8:11, 31:22, 76:8</p> <p>ourselves [1] - 18:21</p> <p>out [26] - 8:16, 16:13, 16:14, 17:13, 21:21, 21:24, 23:6, 29:7, 31:4, 31:24, 32:9, 36:2, 39:11, 39:12, 45:10, 47:13, 56:18, 59:5, 60:25, 62:14, 66:2, 73:4, 74:24, 82:9, 84:25, 98:9</p> <p>outcome [1] - 107:17</p> <p>outlining [1] - 46:9</p> <p>outside [3] - 14:13, 14:15, 88:13</p> <p>over [8] - 18:25, 36:10, 36:11, 64:8, 74:9, 89:17, 91:15, 93:17</p> <p>own [4] - 19:9, 55:10, 55:14, 62:11</p> <p>owner [4] - 29:17, 81:24, 102:18, 103:2</p>	<p>85:7, 85:16</p> <p>PAGE [3] - 106:6, 106:11, 106:17</p> <p>paid [7] - 46:18, 46:22, 47:2, 75:15, 80:20, 82:24, 83:16</p> <p>PALACIOS [3] - 1:24, 2:7, 105:15</p> <p>Palacios [2] - 5:10, 5:21</p> <p>paper [2] - 29:25, 44:22</p> <p>paperwork [1] - 16:19</p> <p>paragraph [6] - 80:8, 84:2, 84:8, 85:7, 85:16, 85:17</p> <p>part [3] - 28:17, 59:17, 90:24</p> <p>participate [1] - 25:23</p> <p>particular [14] - 37:14, 49:22, 83:22, 88:12, 90:25, 91:25, 93:12, 96:9, 96:14, 97:10, 98:21, 100:12, 100:19, 101:9</p> <p>parties [3] - 2:8, 4:7, 107:15</p> <p>PARTY [2] - 1:11, 1:14</p> <p>Party [3] - 2:6, 3:9, 3:15</p> <p>pass [1] - 89:17</p> <p>past [1] - 25:21</p> <p>pay [1] - 58:8</p> <p>pays [1] - 60:25</p> <p>PC [1] - 3:14</p> <p>pending [1] - 7:18</p> <p>people [2] - 100:25, 101:14</p> <p>per [4] - 41:15, 41:18, 41:20, 83:16</p> <p>percent [1] - 94:18</p> <p>perform [12] - 17:4, 22:3, 23:4, 24:21, 26:4, 26:14, 37:5, 46:15, 46:19, 46:23, 93:10, 94:19</p> <p>performed [9] - 33:15, 41:11, 42:11, 46:10, 57:23, 59:18, 59:19, 67:21, 92:6</p> <p>performing [11] - 12:12, 53:18, 84:5, 84:9, 84:22, 86:17, 87:23, 88:4, 88:21, 88:24, 91:2</p> <p>performs [1] - 22:25</p> <p>perimeter [1] - 44:13</p> <p>period [3] - 27:14, 27:16, 49:17</p> <p>permissible [1] - 94:14</p> <p>Permit [1] - 34:7</p> <p>permit [18] - 18:2, 18:4, 18:6, 18:9, 18:11,</p>
P			
<p>P [5] - 3:2, 3:17, 4:2, 5:2</p> <p>P.M [1] - 104:4</p> <p>page [7] - 78:14, 80:7, 80:8, 83:25, 84:13,</p>			

PALACIOS

<p>31:11, 34:3, 34:4, 34:9, 34:22, 34:25, 35:2, 35:3, 35:6, 35:9, 35:10, 35:23, 35:24</p> <p>permits [3] - 29:10, 35:22, 60:17</p> <p>person [11] - 28:21, 63:20, 64:21, 66:9, 71:11, 71:14, 71:17, 75:5, 83:3, 97:11, 101:7</p> <p>personal [1] - 6:25</p> <p>personally [5] - 20:17, 30:15, 57:21, 79:21, 79:25</p> <p>personnel [4] - 60:18, 63:18, 65:22, 66:7</p> <p>phone [5] - 50:19, 56:21, 64:8, 64:15, 65:4</p> <p>phonetic [1] - 16:2</p> <p>photograph [2] - 39:18, 39:21</p> <p>photographs [2] - 61:8, 75:18</p> <p>phrase [2] - 91:6, 103:13</p> <p>pictures [5] - 56:17, 60:23, 61:4, 61:5, 61:16</p> <p>pitch [7] - 22:12, 22:14, 32:18, 91:6, 91:9, 91:11, 95:16</p> <p>place [8] - 28:9, 36:15, 56:24, 94:3, 95:21, 95:23, 99:8, 105:11</p> <p>placed [1] - 29:8</p> <p>PLAINTIFF [2] - 1:4, 1:11</p> <p>Plaintiff [4] - 2:6, 3:4, 3:9, 5:17</p> <p>PLAINTIFF'S [1] - 106:3</p> <p>Plaintiff's [3] - 77:14, 77:16, 77:20</p> <p>planes [1] - 53:25</p> <p>plans [3] - 22:17, 22:18, 102:14</p> <p>plastic [1] - 38:15</p> <p>Please [2] - 5:8, 89:10</p> <p>please [11] - 6:16, 6:20, 7:19, 27:23, 47:7, 49:19, 67:3, 68:13, 68:21, 71:20, 73:24</p> <p>pled [1] - 6:5</p> <p>point [6] - 59:16, 62:14, 85:2, 95:6, 99:17, 101:6</p> <p>points [2] - 53:23, 54:15</p> <p>police [3] - 50:18, 63:8, 63:16</p> <p>poor [3] - 91:23, 95:18, 95:20</p> <p>portion [1] - 43:9</p> <p>portions [1] - 45:8</p> <p>positioned [1] - 95:7</p>	<p>possible [1] - 97:3</p> <p>possibly [1] - 95:25</p> <p>post [3] - 59:7, 59:23, 87:6</p> <p>practice [10] - 54:24, 54:25, 55:2, 92:19, 92:21, 93:24, 94:10, 94:13, 95:3, 95:9</p> <p>practices [1] - 92:15</p> <p>precinct [6] - 64:9, 65:8, 65:10, 65:22, 71:2, 71:6</p> <p>preliminary [1] - 21:18</p> <p>preparation [1] - 16:18</p> <p>prepare [3] - 44:4, 44:5, 44:18</p> <p>prepared [3] - 22:24, 32:22, 33:20</p> <p>prepping [1] - 44:10</p> <p>presence [1] - 63:14</p> <p>present [6] - 38:4, 47:25, 50:13, 70:12, 75:11, 101:5</p> <p>presents [2] - 20:20, 56:3</p> <p>pressure [1] - 97:25</p> <p>pretty [1] - 8:24</p> <p>prevent [3] - 97:12, 98:5, 98:7</p> <p>previously [1] - 42:2</p> <p>price [2] - 58:7, 91:19</p> <p>pricing [1] - 57:7</p> <p>prior [12] - 13:17, 13:22, 38:20, 41:4, 41:8, 42:6, 57:17, 61:6, 68:4, 69:9, 82:17, 86:15</p> <p>probably [2] - 6:22, 7:6</p> <p>problem [3] - 28:2, 57:15, 89:7</p> <p>problems [1] - 89:4</p> <p>Procedure [1] - 2:10</p> <p>procedure [2] - 6:12, 18:4</p> <p>procedures [1] - 18:2</p> <p>process [6] - 18:12, 21:23, 23:10, 25:24, 35:17, 46:4</p> <p>processing [2] - 31:11, 31:22</p> <p>procured [1] - 34:2</p> <p>produced [1] - 100:18</p> <p>product [1] - 14:9</p> <p>production [1] - 103:6</p> <p>products [1] - 36:21</p> <p>project [38] - 17:17, 17:25, 27:4, 27:5, 27:6, 27:11, 28:5, 28:9, 29:5, 29:21, 36:14, 37:24, 38:20, 42:17, 47:3, 47:6, 48:12, 48:19, 52:15, 62:7, 63:10,</p>	<p>65:13, 66:4, 68:4, 75:9, 75:12, 79:13, 80:24, 81:2, 81:11, 82:16, 82:18, 82:22, 86:21, 88:9, 88:18, 88:22, 106:18</p> <p>projects [28] - 16:15, 16:16, 19:9, 19:13, 25:5, 25:19, 26:23, 39:2, 39:7, 39:13, 41:10, 41:23, 41:25, 42:3, 42:6, 42:17, 52:10, 56:11, 57:13, 58:10, 60:9, 60:12, 69:9, 76:18, 76:22, 77:2, 77:5, 79:15</p> <p>promoted [1] - 15:14</p> <p>proper [3] - 14:22, 52:20, 92:16</p> <p>properly [2] - 59:19, 99:22</p> <p>properties [4] - 17:10, 19:6, 49:5, 50:6</p> <p>property [9] - 18:10, 22:24, 23:23, 29:17, 32:10, 59:10, 62:13, 68:8, 88:13</p> <p>proposal [1] - 46:9</p> <p>protocol [2] - 52:9, 52:12</p> <p>provide [3] - 7:20, 51:24, 65:23</p> <p>provided [6] - 8:6, 47:18, 63:11, 64:19, 77:22, 84:11</p> <p>provider [5] - 78:10, 78:17, 80:20, 85:18, 85:22</p> <p>provider's [1] - 86:4</p> <p>providers [1] - 85:12</p> <p>provides [2] - 26:8, 52:4</p> <p>proximity [4] - 25:14, 37:14, 48:24, 67:19</p> <p>Public [3] - 2:14, 5:4, 107:8</p> <p>PUBLIC [1] - 105:22</p> <p>punchlist [3] - 60:2, 60:6, 60:8</p> <p>purchase [4] - 46:5, 80:12, 80:15, 84:17</p> <p>purchased [1] - 30:12</p> <p>purpose [1] - 61:10</p> <p>purposes [1] - 33:25</p> <p>pursuant [1] - 2:8</p> <p>put [6] - 14:19, 23:15, 41:13, 44:17, 45:24, 87:13</p> <p>puts [1] - 14:16</p> <p>putting [2] - 44:16, 72:7</p>	<p>Q</p> <p>quantity [1] - 49:3</p> <p>question [8] - 7:15, 7:18, 8:16, 56:3, 67:3, 67:5, 92:9, 92:11</p> <p>questioned [1] - 66:6</p> <p>questions [12] - 7:12, 8:3, 8:5, 18:25, 48:11, 59:15, 62:13, 89:14, 90:3, 100:21, 101:21, 103:25</p>
			<p>R</p> <p>R [8] - 2:13, 3:2, 4:2, 5:2, 105:2, 107:2, 107:7, 107:23</p> <p>RA [1] - 102:20</p> <p>railing [1] - 93:20</p> <p>Randy [2] - 16:2, 28:25</p> <p>rapport [1] - 57:24</p> <p>rate [1] - 90:25</p> <p>Ratki [1] - 102:19</p> <p>re [1] - 82:8</p> <p>re-measurements [1] - 82:8</p> <p>reach [4] - 53:24, 69:7, 70:4, 93:15</p> <p>reached [1] - 31:4</p> <p>read [10] - 20:25, 30:5, 30:8, 49:10, 49:13, 67:2, 67:5, 71:19, 71:22, 92:11</p> <p>ready [4] - 18:2, 18:17, 30:25, 31:10</p> <p>rear [3] - 53:13, 53:15, 53:18</p> <p>reason [3] - 7:16, 85:5, 85:6</p> <p>recall [12] - 11:10, 21:10, 30:17, 33:10, 39:5, 40:14, 51:21, 51:23, 59:24, 61:23, 83:5, 88:7</p> <p>receive [3] - 9:20, 31:9, 84:17</p> <p>received [9] - 7:6, 31:12, 50:19, 63:6, 63:7, 66:16, 66:24, 66:25, 74:23</p> <p>receives [1] - 83:14</p> <p>recognize [4] - 39:20, 39:23, 40:15, 78:19</p> <p>recollection [1] - 50:12</p> <p>record [11] - 5:9, 7:11, 7:13, 50:18, 55:16, 55:17, 60:15, 61:11, 101:22, 101:23, 107:12</p> <p>records [3] - 59:22, 60:12, 62:3</p>

PALACIOS

<p>recruitment [3] - 14:5, 15:8, 15:20</p> <p>refer [2] - 19:21, 96:3</p> <p>reference [1] - 91:24</p> <p>referred [5] - 30:7, 49:12, 67:4, 71:21, 92:10</p> <p>referring [1] - 96:4</p> <p>refresher [1] - 10:5</p> <p>regarding [8] - 10:14, 42:10, 50:5, 56:4, 85:23, 87:7, 87:17, 101:5</p> <p>regularly [1] - 96:9</p> <p>regulated [1] - 85:14</p> <p>related [2] - 91:5, 107:15</p> <p>relating [1] - 23:21</p> <p>relation [2] - 37:15, 67:23</p> <p>relationship [2] - 27:22, 86:8</p> <p>released [3] - 73:6, 74:15, 74:22</p> <p>remained [1] - 10:24</p> <p>remaining [1] - 70:8</p> <p>remedy [1] - 85:19</p> <p>remember [24] - 9:13, 26:17, 28:8, 33:7, 34:21, 36:25, 37:8, 40:16, 40:19, 40:22, 48:8, 50:9, 55:19, 61:21, 64:10, 64:15, 64:23, 65:15, 67:24, 67:25, 83:21, 86:19, 90:15, 102:16</p> <p>removal [1] - 30:3</p> <p>remove [5] - 29:22, 43:17, 43:19, 43:22, 54:16</p> <p>removed [4] - 43:6, 43:25, 45:9, 45:14</p> <p>renewed [1] - 10:10</p> <p>renovations [1] - 10:15</p> <p>rep [1] - 73:2</p> <p>rep's [1] - 72:17</p> <p>repair [1] - 62:16</p> <p>repaired [2] - 43:10, 58:4</p> <p>repairs [1] - 12:25</p> <p>repeat [1] - 90:3</p> <p>rephrase [2] - 7:15, 90:4</p> <p>replaced [1] - 43:10</p> <p>report [11] - 57:25, 66:2, 75:23, 76:2, 76:6, 100:7, 100:11, 100:23, 100:24, 101:12</p> <p>reported [3] - 13:2, 15:7, 28:21</p> <p>Reporter [5] - 30:9, 49:14, 67:6, 71:23, 77:18, 92:12</p> <p>reporter [2] - 7:10, 8:16</p>	<p>represent [1] - 89:24</p> <p>representative [3] - 72:2, 72:3, 79:8</p> <p>representatives [1] - 52:5</p> <p>representing [1] - 5:17</p> <p>request [2] - 87:8, 87:18</p> <p>REQUESTED [1] - 106:16</p> <p>requests [2] - 87:7, 87:17</p> <p>require [2] - 11:17, 74:4</p> <p>required [7] - 15:5, 30:2, 35:6, 59:12, 63:14, 70:3, 74:2</p> <p>requirement [2] - 54:20, 54:23</p> <p>reserved [1] - 4:22</p> <p>residence [1] - 63:11</p> <p>residential [11] - 13:9, 13:10, 17:9, 17:11, 24:2, 27:11, 28:5, 42:3, 57:18, 60:9, 60:12</p> <p>resides [1] - 25:12</p> <p>respective [2] - 2:8, 4:6</p> <p>respond [1] - 63:19</p> <p>responded [1] - 66:6</p> <p>response [1] - 77:21</p> <p>responses [1] - 7:12</p> <p>responsibility [2] - 73:7, 80:5</p> <p>responsible [2] - 15:8, 15:21</p> <p>retain [5] - 24:20, 26:13, 35:18, 76:24, 77:7</p> <p>retained [2] - 57:16, 106:8</p> <p>retaining [2] - 26:21, 27:2</p> <p>retains [1] - 24:10</p> <p>retake [1] - 18:24</p> <p>returning [1] - 75:5</p> <p>revenue [2] - 15:6, 15:21</p> <p>review [4] - 16:19, 72:22, 78:3, 83:15</p> <p>reviewed [1] - 49:2</p> <p>reviews [1] - 100:16</p> <p>revised [1] - 22:22</p> <p>ridge [5] - 29:25, 44:5, 54:17, 54:18, 98:10</p> <p>right [22] - 8:6, 22:9, 45:18, 45:19, 51:2, 51:3, 51:13, 51:14, 53:10, 53:13, 54:6, 58:18, 62:17, 70:10, 70:17, 70:21, 81:3, 82:18, 86:3, 86:17, 99:12, 102:5</p> <p>risk [4] - 76:6, 76:8, 100:6, 101:14</p> <p>Rivera [2] - 40:23, 64:25</p> <p>RIVERA [2] - 1:3, 3:5</p>	<p>role [3] - 20:17, 25:3, 36:8</p> <p>roof [52] - 30:2, 32:20, 42:23, 43:5, 43:7, 43:9, 43:11, 43:13, 44:19, 44:23, 44:24, 44:25, 45:9, 45:12, 45:25, 48:17, 50:25, 51:2, 54:4, 55:4, 69:8, 91:12, 92:3, 92:5, 92:14, 92:17, 92:18, 93:2, 93:3, 93:4, 93:5, 93:21, 94:2, 94:3, 94:4, 95:15, 95:16, 97:9, 98:10, 98:23, 99:4, 99:7, 99:10, 99:15, 99:16, 99:17, 99:21, 99:24, 99:25, 102:7</p> <p>roofing [24] - 17:5, 22:4, 26:10, 26:18, 26:19, 29:23, 35:14, 35:16, 36:19, 36:24, 37:25, 38:5, 39:24, 43:20, 44:16, 44:23, 46:4, 59:4, 67:20, 84:11, 91:13, 94:18, 94:21, 103:17</p> <p>roofs [2] - 14:10, 54:21</p> <p>ropes [1] - 45:24</p> <p>rot [2] - 44:2, 56:8</p> <p>Rules [1] - 2:9</p>	<p>saw [4] - 51:17, 52:22, 56:12, 86:20</p> <p>say [30] - 6:22, 9:18, 13:15, 16:14, 24:6, 24:22, 24:25, 27:3, 27:25, 33:14, 33:18, 41:7, 41:14, 48:22, 54:10, 57:20, 64:13, 69:18, 70:4, 72:9, 74:6, 75:7, 84:23, 87:25, 89:9, 92:17, 94:17, 97:8, 99:15, 101:10</p> <p>saying [2] - 91:14, 99:5</p> <p>says [1] - 47:15</p> <p>scaffolds [1] - 45:4</p> <p>scene [3] - 74:7, 75:19, 101:16</p> <p>scheduled [2] - 49:16, 49:24</p> <p>schedulers [2] - 35:25, 36:9</p> <p>scheduling [4] - 36:3, 37:4, 37:9, 37:18</p> <p>school [3] - 8:23, 9:2, 10:20</p> <p>schooling [1] - 8:21</p> <p>scope [8] - 19:2, 23:16, 29:20, 29:22, 35:4, 36:10, 36:11, 57:6</p> <p>Scott [2] - 34:19, 34:22</p> <p>sealing [1] - 4:7</p> <p>second [15] - 29:8, 70:4, 80:10, 92:17, 93:2, 93:3, 93:4, 93:21, 94:2, 94:3, 97:9, 98:23, 99:7, 99:21, 101:3</p> <p>section [4] - 45:12, 83:25, 85:8, 85:11</p> <p>Section [1] - 84:13</p> <p>see [14] - 18:14, 22:7, 25:15, 54:12, 74:10, 76:20, 78:16, 79:7, 79:9, 80:10, 84:2, 85:17, 86:4, 86:24</p> <p>seem [1] - 73:19</p> <p>seen [6] - 69:15, 78:5, 89:6, 100:10, 100:19, 102:25</p> <p>sell [1] - 17:14</p> <p>send [2] - 56:16, 100:14</p> <p>sent [3] - 31:15, 82:5, 82:25</p> <p>sentence [3] - 80:10, 85:18, 85:21</p> <p>separate [4] - 11:23, 33:4, 79:11, 80:22</p> <p>service [21] - 4:16, 12:14, 12:15, 12:22, 13:5, 13:12, 15:12, 15:16, 15:19, 17:14, 28:15,</p>
S			
<p>S [5] - 3:2, 4:2, 5:2, 106:2</p> <p>safe [3] - 93:24, 94:6, 94:7</p> <p>safety [11] - 10:15, 51:25, 54:24, 72:11, 76:25, 77:4, 85:8, 85:14, 86:11, 102:12, 102:14</p> <p>said [17] - 55:5, 63:17, 63:21, 64:14, 64:16, 65:20, 66:5, 66:19, 67:13, 67:14, 67:17, 69:20, 72:20, 74:8, 76:2, 85:19</p> <p>sale [1] - 30:18</p> <p>sales [16] - 17:13, 17:15, 18:24, 19:18, 20:5, 21:6, 21:19, 21:21, 22:21, 29:12, 31:3, 31:20, 32:25, 33:9, 60:18, 102:17</p> <p>same [11] - 4:12, 4:15, 4:17, 7:7, 7:9, 38:3, 39:7, 48:23, 85:7, 99:8, 99:23</p> <p>satisfaction [1] - 88:25</p> <p>Saturday [1] - 63:7</p>			

PALACIOS

<p>35:15, 78:10, 78:17, 80:20, 80:22, 85:12, 85:18, 85:22, 85:24, 86:4</p> <p>services [10] - 20:14, 23:4, 26:7, 26:15, 30:11, 46:15, 46:19, 46:23, 81:3, 81:6</p> <p>servicing [1] - 31:25</p> <p>set [7] - 7:8, 23:22, 69:6, 92:16, 93:16, 107:11, 107:20</p> <p>setting [1] - 6:8</p> <p>seven [3] - 9:18, 10:6, 11:9</p> <p>several [4] - 25:19, 27:20, 47:10, 51:8</p> <p>shape [1] - 14:23</p> <p>she [3] - 7:13, 48:5, 66:4</p> <p>sheets [1] - 61:25</p> <p>shield [2] - 44:12, 44:20</p> <p>shingle [3] - 43:20, 44:22, 44:23</p> <p>shingles [4] - 43:14, 43:18, 94:23, 94:24</p> <p>shipped [2] - 36:17, 36:24</p> <p>shirt [1] - 52:13</p> <p>shortly [1] - 17:18</p> <p>should [1] - 22:16</p> <p>shovel [1] - 43:20</p> <p>show [4] - 39:16, 52:4, 68:19, 77:24</p> <p>showed [1] - 56:20</p> <p>shown [1] - 43:8</p> <p>side [16] - 51:2, 51:4, 51:12, 53:10, 53:13, 53:15, 53:18, 54:7, 68:2, 68:4, 95:19, 96:3, 96:5, 102:5</p> <p>sidewalk [2] - 38:10, 88:16</p> <p>siding [2] - 17:6, 26:20</p> <p>sidings [1] - 14:10</p> <p>SIF26263 [1] - 3:17</p> <p>sign [1] - 62:20</p> <p>signal [1] - 68:19</p> <p>signature [5] - 62:6, 62:19, 78:17, 79:9, 79:10</p> <p>signed [6] - 4:10, 4:12, 4:15, 79:7, 100:24, 101:15</p> <p>signs [3] - 45:24, 62:23, 62:24</p> <p>similar [1] - 59:25</p> <p>since [1] - 10:6</p> <p>Singleton [2] - 16:2, 28:25</p>	<p>sir [10] - 5:14, 6:7, 8:6, 15:9, 42:20, 77:19, 78:2, 84:13, 89:22, 103:12</p> <p>site [25] - 22:7, 30:4, 38:4, 55:24, 56:15, 58:20, 58:23, 61:5, 63:19, 63:25, 64:6, 65:23, 66:4, 66:6, 66:7, 71:3, 71:7, 71:8, 71:24, 72:4, 76:24, 90:23, 90:24, 96:10, 96:22</p> <p>six [5] - 27:3, 27:14, 27:16, 27:19, 95:7</p> <p>six-foot [1] - 95:7</p> <p>six-month [2] - 27:14, 27:16</p> <p>size [3] - 14:22, 76:16, 91:23</p> <p>sized [1] - 70:10</p> <p>skid [1] - 38:14</p> <p>slip [2] - 98:3, 98:19</p> <p>slowly [2] - 84:22, 85:2</p> <p>small [1] - 51:11</p> <p>so [44] - 6:11, 7:16, 8:17, 10:4, 10:22, 11:17, 11:23, 13:2, 20:21, 21:7, 22:6, 22:13, 25:13, 25:21, 33:4, 37:3, 37:22, 43:19, 50:12, 52:23, 54:2, 54:16, 56:21, 57:10, 62:9, 63:19, 65:20, 70:3, 70:10, 71:5, 73:16, 81:5, 82:2, 82:4, 83:19, 83:24, 90:4, 91:20, 92:24, 93:16, 93:23, 97:11, 97:15, 98:16</p> <p>sold [4] - 14:10, 17:18, 29:7, 82:4</p> <p>solution [1] - 85:4</p> <p>some [16] - 26:7, 26:16, 41:24, 42:2, 59:17, 67:19, 74:11, 74:23, 74:25, 77:23, 85:23, 89:15, 89:18, 91:14, 99:17</p> <p>someone [6] - 19:21, 19:22, 31:3, 33:2, 65:25, 100:15</p> <p>something [28] - 7:2, 17:10, 24:7, 31:19, 35:21, 37:20, 38:13, 54:15, 55:5, 56:4, 56:7, 56:9, 58:7, 64:6, 68:15, 69:18, 76:7, 79:16, 82:3, 83:3, 84:7, 84:23, 89:6, 89:9, 93:6, 94:15, 100:25</p>	<p>sometimes [1] - 91:20</p> <p>somewhat [1] - 95:14</p> <p>somewhere [1] - 64:2</p> <p>son [2] - 40:25, 68:8</p> <p>sorry [12] - 10:19, 12:17, 15:13, 16:10, 21:16, 26:19, 46:21, 67:10, 82:12, 82:16, 87:25, 92:8</p> <p>sort [3] - 77:23, 85:23, 91:14</p> <p>sound [2] - 56:10, 58:2</p> <p>source [2] - 67:9, 67:12</p> <p>SOUTHERN [1] - 1:2</p> <p>space [2] - 95:21, 95:23</p> <p>Spanish [3] - 12:4, 12:5, 49:8</p> <p>speak [4] - 12:2, 71:6, 72:14, 76:12</p> <p>speaking [7] - 16:22, 63:16, 72:25, 76:10, 76:11, 93:20, 98:21</p> <p>specific [3] - 32:16, 35:15, 88:7</p> <p>specified [3] - 82:20, 85:25, 105:11</p> <p>specify [2] - 35:14, 82:23</p> <p>specifying [1] - 81:6</p> <p>spoke [5] - 48:21, 49:7, 55:20, 71:13, 74:7</p> <p>spoken [1] - 58:19</p> <p>square [1] - 32:19</p> <p>SS [1] - 107:4</p> <p>staged [1] - 38:8</p> <p>start [8] - 11:7, 31:7, 44:10, 44:16, 45:11, 51:3, 96:19, 96:21</p> <p>started [4] - 8:23, 10:20, 10:23, 47:11</p> <p>starter [1] - 44:17</p> <p>starting [2] - 10:19, 11:14</p> <p>starts [1] - 85:18</p> <p>State [5] - 2:14, 5:4, 24:13, 24:16, 107:8</p> <p>STATE [1] - 107:4</p> <p>state [1] - 5:8</p> <p>stated [1] - 85:15</p> <p>statement [1] - 101:16</p> <p>statements [1] - 100:25</p> <p>Staten [1] - 3:16</p> <p>states [1] - 17:25</p> <p>STATES [1] - 1:2</p> <p>stating [1] - 74:24</p> <p>status [1] - 74:14</p> <p>stay [1] - 52:16</p> <p>steepness [3] - 91:12, 91:17, 91:21</p> <p>stepped [1] - 84:23</p> <p>steps [1] - 44:15</p>	<p>still [6] - 9:24, 10:3, 26:21, 73:6, 102:22, 103:5</p> <p>STIPULATED [2] - 4:5, 4:20</p> <p>stop [2] - 52:23, 53:6</p> <p>stopped [1] - 26:25</p> <p>store [1] - 10:24</p> <p>stories [1] - 22:7</p> <p>story [9] - 42:23, 43:2, 43:3, 43:7, 54:2, 69:5, 70:4, 70:5</p> <p>strapped [1] - 98:8</p> <p>Street [2] - 2:12, 3:11</p> <p>street [1] - 96:5</p> <p>strip [1] - 43:21</p> <p>stripped [1] - 48:18</p> <p>stripping [3] - 50:25, 99:15, 99:24</p> <p>structurally [1] - 56:9</p> <p>stuff [1] - 56:12</p> <p>subcontract [3] - 23:5, 23:7, 25:12</p> <p>subcontractor [6] - 19:25, 23:19, 45:22, 62:10, 62:15, 72:21</p> <p>subcontractors [5] - 23:10, 25:4, 25:14, 26:3, 60:21</p> <p>submit [2] - 61:25, 62:3</p> <p>submitted [3] - 46:9, 60:20, 62:25</p> <p>subs [2] - 25:24, 54:21</p> <p>Subscribed [1] - 105:18</p> <p>subsequent [2] - 87:16, 103:9</p> <p>such [11] - 14:10, 24:21, 42:3, 51:25, 61:5, 76:6, 90:25, 94:23, 100:22, 100:23, 107:12</p> <p>Suite [2] - 5:12, 8:7</p> <p>summer [1] - 28:11</p> <p>summertime [1] - 28:11</p> <p>supervise [1] - 15:3</p> <p>supervisor [3] - 13:19, 15:2, 28:22</p> <p>supply [2] - 37:2, 38:18</p> <p>supposed [6] - 32:3, 43:17, 53:20, 54:22, 62:6, 82:21</p> <p>sure [16] - 14:22, 15:6, 47:23, 49:2, 56:5, 59:5, 59:10, 59:11, 59:13, 59:14, 66:8, 74:11, 83:15, 87:13, 98:4, 99:11</p> <p>surrounding [4] - 49:4, 50:5, 68:8, 68:18</p> <p>sustained [1] - 66:13</p>
--	---	--	---

PALACIOS

sworn [5] - 4:10, 5:3, 105:5, 105:18, 107:11 system [1] - 82:7	25:8, 25:9, 25:17, 25:20, 26:3, 26:7, 26:11, 27:14, 28:3, 28:9, 28:24, 29:5, 29:13, 29:21, 30:2, 30:5, 30:11, 30:23, 30:25, 31:9, 31:10, 31:15, 31:23, 31:25, 32:3, 32:19, 33:8, 33:10, 33:22, 34:5, 34:14, 34:18, 35:13, 35:23, 36:23, 37:10, 37:23, 38:24, 39:13, 39:21, 39:24, 39:25, 41:4, 41:25, 42:16, 42:22, 42:23, 43:5, 44:13, 45:21, 46:4, 46:10, 46:14, 46:16, 46:19, 46:23, 47:15, 47:18, 47:23, 48:12, 49:5, 50:10, 50:13, 50:14, 50:16, 51:10, 51:16, 51:17, 51:18, 51:22, 52:5, 52:9, 52:14, 52:20, 53:3, 53:17, 54:10, 54:12, 54:18, 54:21, 55:8, 55:12, 55:20, 55:21, 55:24, 56:4, 56:12, 56:21, 56:23, 56:24, 57:11, 57:20, 57:25, 58:6, 58:7, 58:18, 58:20, 58:23, 59:2, 59:5, 59:10, 59:11, 59:13, 59:14, 59:16, 59:17, 59:18, 59:24, 60:2, 60:17, 61:14, 61:23, 62:21, 63:4, 63:10, 63:12, 63:17, 63:18, 64:16, 64:19, 64:21, 64:24, 65:4, 65:19, 65:20, 65:23, 65:25, 66:6, 66:7, 66:12, 66:19, 66:20, 66:23, 66:24, 67:9, 67:12, 67:14, 67:15, 67:16, 67:17, 67:18, 67:20, 68:6, 69:9, 69:15, 69:21, 70:2, 70:9, 70:16, 70:20, 71:2, 71:8, 71:14, 71:19, 71:25, 72:6, 72:10, 72:11, 72:20, 72:21, 73:2, 74:8, 74:12, 74:19, 74:22, 74:24, 75:3, 75:4, 75:8, 76:19, 77:25, 78:3, 78:10, 78:22, 78:24, 79:14, 79:18, 80:5, 80:11, 81:3, 81:10,	82:15, 82:16, 82:25, 83:7, 83:15, 83:21, 84:2, 84:4, 84:16, 85:2, 85:5, 85:11, 85:12, 85:14, 85:18, 85:21, 86:5, 86:20, 87:21, 88:2, 88:3, 88:9, 89:4, 89:6, 90:11, 91:6, 91:18, 92:2, 92:3, 92:21, 93:5, 93:6, 93:11, 93:13, 93:21, 94:19, 95:3, 95:20, 96:10, 97:6, 98:6, 98:10, 98:15, 98:16, 98:21, 99:5, 99:11, 99:13, 99:17, 99:22, 100:5, 100:10, 100:12, 101:2, 101:6, 101:7, 101:11, 101:15, 101:19, 102:6, 102:9, 102:13, 102:15, 102:17, 102:25, 103:10, 103:15, 105:4, 105:8, 107:12, 107:13, 107:14, 107:16 that's [44] - 7:17, 7:22, 8:11, 14:24, 15:17, 18:13, 19:5, 19:7, 19:10, 20:13, 20:16, 21:19, 22:2, 22:22, 25:25, 29:15, 35:4, 37:7, 54:25, 55:2, 56:2, 56:7, 56:9, 59:12, 59:21, 60:20, 62:6, 63:23, 68:9, 75:17, 77:20, 78:20, 79:17, 81:4, 81:8, 81:24, 82:8, 84:10, 84:12, 93:22, 94:17, 98:23, 100:4, 103:5 the [850] - 2:5, 2:8, 2:9, 2:10, 2:14, 3:4, 3:9, 3:15, 4:6, 4:7, 4:8, 4:9, 4:10, 4:12, 4:13, 4:14, 4:15, 4:16, 4:17, 4:18, 4:22, 5:4, 5:8, 5:17, 6:11, 7:5, 7:7, 7:9, 7:18, 7:23, 7:24, 8:12, 8:13, 8:16, 8:24, 9:10, 9:16, 9:23, 10:2, 10:6, 10:8, 10:12, 10:18, 10:22, 10:24, 11:3, 11:4, 11:5, 11:7, 11:10, 11:13, 11:14, 11:19, 11:24, 12:9, 12:22, 13:2, 14:14, 14:22, 15:3, 15:6, 15:24, 15:25, 16:6, 16:9, 16:11, 16:12, 16:13, 16:14, 16:23, 17:24, 17:25, 18:4, 18:7, 18:8,	18:9, 18:11, 18:12, 18:15, 18:16, 18:20, 18:24, 19:2, 19:4, 19:5, 19:6, 19:12, 19:18, 19:21, 20:3, 20:4, 20:7, 20:8, 20:13, 20:18, 20:20, 20:25, 21:3, 21:5, 21:6, 21:8, 21:11, 21:19, 21:21, 21:22, 21:23, 22:3, 22:5, 22:6, 22:8, 22:10, 22:12, 22:13, 22:16, 22:20, 23:4, 23:9, 23:14, 23:15, 23:18, 23:20, 23:22, 23:25, 24:6, 24:9, 24:13, 24:16, 25:4, 25:9, 25:10, 25:11, 25:13, 25:14, 25:21, 25:23, 26:3, 26:14, 27:6, 27:7, 27:10, 27:11, 27:16, 27:17, 27:22, 28:2, 28:10, 28:14, 28:20, 29:7, 29:8, 29:14, 29:16, 29:17, 29:20, 29:23, 30:2, 30:4, 30:7, 30:8, 30:11, 30:12, 30:14, 30:17, 30:18, 30:19, 30:24, 30:25, 31:2, 31:3, 31:10, 31:20, 31:25, 32:9, 32:15, 32:19, 32:20, 32:22, 32:25, 33:8, 33:9, 33:12, 33:13, 33:15, 33:24, 34:3, 34:6, 34:8, 34:11, 34:22, 34:25, 35:3, 35:4, 35:5, 35:9, 35:10, 35:11, 35:16, 35:17, 35:22, 35:23, 35:24, 35:25, 36:2, 36:3, 36:5, 36:8, 36:10, 36:11, 36:12, 36:13, 36:14, 36:15, 36:16, 36:17, 36:19, 36:24, 37:5, 37:8, 37:9, 37:14, 37:15, 37:18, 37:23, 37:25, 38:3, 38:4, 38:5, 38:7, 38:9, 38:10, 38:11, 38:17, 38:18, 38:20, 39:2, 39:3, 39:4, 39:7, 39:11, 39:12, 39:13, 39:20, 39:24, 40:2, 40:3, 40:6, 40:16, 40:23, 41:5, 41:25, 42:3, 42:10, 42:15, 42:17, 42:21, 43:5, 43:7, 43:8, 43:9, 43:11, 43:12, 43:13, 43:17, 43:19, 43:21, 43:24,
T			
T [7] - 4:2, 102:21, 105:2, 106:2, 107:2 T-K-I [1] - 102:21 take [13] - 7:17, 19:4, 20:25, 21:16, 21:24, 22:13, 32:3, 48:14, 56:23, 58:10, 61:8, 61:16, 75:18 taken [3] - 2:7, 32:15, 64:22 takes [1] - 21:18 taking [3] - 21:22, 61:21, 69:7 talk [4] - 48:20, 58:22, 77:25, 83:8 talked [2] - 32:14, 88:11 talking [1] - 60:2 task [1] - 94:19 team [2] - 29:13, 31:4 teams [1] - 17:13 tell [3] - 55:25, 73:12, 91:11 ten [4] - 9:14, 9:15, 11:3, 56:18 ten-hour [1] - 9:15 tend [1] - 22:7 term [1] - 60:3 terms [5] - 7:24, 57:3, 57:22, 58:14, 89:8 territories [4] - 11:23, 13:5, 24:4, 24:6 territory [4] - 11:23, 13:3, 20:7, 28:18 testified [1] - 5:5 testify [1] - 105:5 testimony [4] - 7:11, 105:6, 105:10, 107:13 testing [1] - 74:11 than [2] - 48:10, 62:5 thank [4] - 67:7, 71:20, 101:21, 103:24 That [1] - 107:10 that [300] - 4:7, 4:9, 4:13, 4:20, 5:18, 7:14, 7:18, 9:10, 9:25, 12:16, 12:24, 13:4, 13:9, 13:13, 13:18, 13:20, 13:22, 13:24, 14:22, 15:6, 15:23, 17:20, 17:24, 17:25, 18:22, 20:7, 20:14, 20:23, 21:2, 21:4, 21:9, 21:17, 22:15, 22:24, 23:5, 23:13, 23:25, 24:9,			

PALACIOS

43:25, 44:4, 44:11, 44:12, 44:13, 44:16, 44:17, 44:18, 44:19, 44:20, 44:21, 44:22, 44:24, 44:25, 45:8, 45:10, 45:12, 45:13, 45:14, 45:15, 45:16, 45:18, 45:19, 45:20, 45:22, 45:24, 45:25, 46:3, 46:4, 46:10, 46:15, 47:5, 47:10, 47:13, 47:18, 47:20, 47:22, 47:25, 48:12, 48:13, 48:15, 48:17, 48:19, 48:24, 48:25, 49:2, 49:4, 49:10, 49:12, 49:13, 49:23, 50:5, 50:12, 50:13, 50:17, 50:18, 50:19, 50:20, 50:21, 50:25, 51:2, 51:3, 51:7, 51:10, 51:11, 51:12, 51:13, 51:14, 51:18, 51:19, 51:22, 52:3, 52:7, 52:10, 52:14, 52:15, 52:19, 52:20, 53:6, 53:9, 53:10, 53:11, 53:13, 53:15, 53:17, 53:18, 53:22, 53:23, 53:24, 53:25, 54:4, 54:6, 54:7, 54:11, 54:17, 55:4, 55:8, 55:9, 55:12, 55:16, 55:17, 55:24, 56:15, 56:19, 56:20, 56:21, 56:23, 57:6, 57:7, 57:12, 57:22, 58:6, 58:8, 58:11, 58:14, 58:20, 58:23, 59:10, 59:11, 59:13, 59:15, 59:20, 60:3, 60:12, 60:17, 60:20, 60:24, 60:25, 61:5, 61:8, 61:12, 62:5, 62:7, 62:9, 62:10, 62:13, 62:14, 62:15, 62:20, 63:7, 63:11, 63:12, 63:16, 63:18, 63:20, 63:24, 64:3, 64:5, 64:6, 64:7, 64:8, 64:9, 64:11, 64:12, 64:15, 64:19, 64:21, 64:22, 64:23, 65:3, 65:5, 65:8, 65:10, 65:13, 65:15, 65:18, 65:22, 65:23, 66:3, 66:4, 66:5, 66:7, 66:8, 66:9, 66:11, 66:12, 66:14, 66:17, 66:20, 66:21, 66:23, 66:24, 66:25, 67:2, 67:4, 67:6,	67:8, 67:9, 67:11, 67:12, 67:16, 67:20, 67:23, 67:25, 68:2, 68:4, 68:10, 68:12, 68:17, 68:19, 68:25, 69:2, 69:4, 69:7, 69:8, 69:22, 70:8, 70:10, 70:11, 70:15, 70:19, 71:2, 71:3, 71:5, 71:6, 71:7, 71:8, 71:10, 71:11, 71:13, 71:14, 71:15, 71:17, 71:21, 71:22, 71:24, 72:4, 72:6, 72:16, 72:17, 72:18, 72:19, 72:20, 72:21, 72:22, 73:2, 73:5, 73:8, 73:10, 73:12, 73:13, 73:20, 73:22, 74:3, 74:7, 74:8, 74:9, 74:13, 74:14, 74:16, 74:22, 74:23, 75:4, 75:9, 75:12, 75:15, 75:19, 75:25, 76:2, 76:6, 76:15, 76:25, 77:5, 77:11, 77:18, 78:9, 78:10, 78:13, 78:14, 78:19, 79:9, 79:15, 79:19, 80:7, 80:8, 80:10, 80:16, 80:18, 80:19, 80:24, 81:9, 81:17, 81:18, 81:19, 81:20, 81:21, 81:23, 81:25, 82:4, 82:6, 82:7, 82:10, 82:14, 82:16, 82:22, 83:14, 83:16, 83:19, 83:20, 84:7, 84:11, 84:15, 84:17, 84:22, 85:6, 85:7, 85:8, 85:12, 85:17, 85:22, 85:24, 86:3, 86:8, 86:19, 86:20, 86:25, 87:3, 87:10, 87:11, 87:19, 87:20, 87:22, 87:23, 87:24, 88:3, 88:4, 88:5, 88:8, 88:12, 88:13, 88:14, 88:15, 88:16, 88:18, 88:20, 88:22, 88:24, 88:25, 89:23, 90:14, 90:22, 90:24, 90:25, 91:2, 91:6, 91:9, 91:10, 91:11, 91:12, 91:15, 91:17, 91:19, 91:21, 91:22, 91:23, 92:2, 92:4, 92:5, 92:9, 92:10, 92:11, 92:17, 92:18, 92:25, 93:3, 93:4, 93:5, 93:13, 93:15, 93:16, 93:17, 93:21, 94:2, 94:3, 94:4,	94:18, 94:19, 94:24, 95:6, 95:13, 95:15, 95:16, 95:18, 95:19, 95:25, 96:3, 96:4, 96:5, 96:6, 96:15, 96:16, 96:17, 96:18, 96:20, 96:22, 97:9, 97:15, 97:16, 97:18, 97:20, 97:21, 97:22, 97:25, 98:2, 98:6, 98:7, 98:8, 98:9, 98:10, 98:11, 98:12, 98:13, 98:14, 98:17, 98:18, 98:20, 98:22, 99:3, 99:6, 99:7, 99:8, 99:10, 99:13, 99:14, 99:15, 99:19, 99:20, 99:23, 99:24, 100:13, 100:14, 100:16, 100:17, 101:6, 101:11, 101:16, 101:17, 101:22, 101:23, 102:4, 102:5, 102:7, 102:9, 102:16, 102:18, 103:2, 103:10, 103:11, 103:12, 103:16, 104:4, 105:5, 105:6, 105:8, 105:10, 106:20, 106:22, 107:8, 107:10, 107:13, 107:15, 107:17 THE [1] - 41:20 their [18] - 11:6, 25:17, 25:22, 42:11, 42:16, 54:12, 54:13, 54:21, 55:10, 55:14, 59:4, 62:11, 72:23, 89:7, 91:13, 97:17, 99:16, 99:25 them [32] - 14:16, 14:19, 18:21, 18:22, 21:4, 21:7, 25:18, 26:16, 27:2, 34:8, 40:14, 42:2, 48:14, 52:4, 52:22, 52:23, 53:5, 55:5, 55:23, 55:25, 56:16, 58:8, 59:16, 61:21, 70:14, 71:10, 74:4, 83:8, 83:13, 86:16, 88:11, 98:2 themselves [3] - 54:5, 54:17, 54:19 then [56] - 8:23, 10:6, 11:2, 14:16, 14:18, 14:19, 18:16, 18:19, 18:20, 21:4, 21:6, 21:24, 22:10, 22:21, 23:18, 25:23, 29:9, 31:3, 31:21, 31:23, 32:17, 34:2, 35:18, 36:15, 43:6, 43:23, 43:25, 44:3, 44:4, 44:17, 44:22, 45:14,	54:4, 56:17, 59:19, 64:8, 64:20, 65:7, 66:22, 70:7, 71:13, 81:22, 81:25, 82:6, 82:9, 82:10, 83:17, 83:18, 84:18, 86:2, 93:2, 93:17, 93:18, 94:3, 96:16, 100:15 there [66] - 8:10, 12:21, 17:15, 19:14, 20:5, 20:25, 21:2, 21:14, 22:22, 24:3, 27:7, 30:23, 32:23, 33:4, 34:13, 38:16, 40:13, 40:18, 40:19, 45:4, 45:6, 45:23, 47:17, 48:4, 50:21, 51:7, 51:9, 52:12, 52:15, 52:25, 53:19, 54:18, 54:23, 58:18, 63:5, 63:10, 63:13, 64:20, 66:19, 67:19, 68:12, 68:20, 70:6, 70:19, 71:25, 74:25, 78:20, 79:17, 80:8, 81:5, 83:6, 83:17, 83:25, 85:21, 92:2, 93:9, 93:12, 95:20, 96:16, 96:21, 97:17, 98:19, 101:4, 101:5 there's [1] - 81:15 thereafter [2] - 44:10, 100:16 these [8] - 17:8, 19:3, 19:9, 19:12, 24:10, 25:5, 57:12, 60:9 they [139] - 7:9, 17:5, 18:8, 20:6, 20:7, 20:12, 23:7, 24:11, 25:15, 25:17, 25:20, 26:25, 27:20, 31:21, 34:10, 35:24, 36:2, 36:10, 36:12, 36:13, 36:15, 37:15, 38:11, 38:12, 38:14, 38:16, 41:25, 43:19, 43:21, 44:4, 44:5, 44:10, 44:12, 44:15, 44:17, 44:18, 45:9, 45:11, 45:12, 45:13, 45:14, 46:10, 46:12, 46:13, 46:15, 46:18, 46:19, 46:22, 46:23, 47:2, 48:11, 48:13, 50:24, 50:25, 52:5, 52:7, 53:17, 53:19, 54:2, 54:6, 54:9, 54:12, 54:14, 54:16, 54:17, 54:18, 55:12, 55:13, 56:3, 56:4, 56:11, 56:12, 56:18, 56:22, 57:5, 59:4, 59:5,
--	--	--	--

PALACIOS

62:11, 62:12, 62:17, 63:8, 63:9, 63:11, 63:12, 63:20, 63:21, 63:22, 63:23, 66:8, 66:19, 69:24, 70:3, 70:5, 70:7, 70:9, 71:9, 71:16, 72:7, 72:16, 72:20, 72:23, 73:14, 73:16, 73:17, 73:19, 74:2, 74:10, 74:15, 75:7, 75:11, 75:15, 75:24, 78:12, 83:20, 87:12, 88:24, 89:8, 93:2, 93:3, 94:11, 97:16, 97:19, 97:22, 97:23, 97:24, 98:13, 98:14, 98:16, 98:17, 102:6, 102:8, 102:10 they'd [1] - 57:25 thing [4] - 48:13, 48:23, 52:3, 94:14 things [5] - 26:11, 58:3, 62:16, 94:11, 94:20 think [5] - 10:4, 41:10, 83:23, 86:15, 99:12 THIRD [2] - 1:11, 1:14 third [10] - 43:7, 70:5, 92:18, 93:5, 94:4, 99:10, 99:15, 99:17, 99:24, 101:3 Third [3] - 2:6, 3:9, 3:15 THIRD-PARTY [2] - 1:11, 1:14 Third-Party [3] - 2:6, 3:9, 3:15 this [97] - 6:8, 11:25, 16:24, 20:4, 21:10, 27:4, 28:2, 29:13, 29:14, 31:8, 31:13, 32:2, 32:10, 32:16, 34:16, 34:23, 35:7, 35:19, 36:20, 37:3, 37:13, 37:19, 37:23, 39:18, 41:11, 42:4, 42:12, 42:18, 42:25, 47:2, 49:16, 49:17, 49:21, 50:2, 50:14, 57:5, 57:17, 58:10, 59:3, 60:9, 60:13, 68:8, 68:11, 70:11, 72:13, 74:18, 75:20, 76:9, 76:12, 76:19, 77:8, 77:13, 77:18, 78:5, 78:9, 79:3, 79:22, 79:25, 80:17, 81:7, 81:11, 82:18, 83:22, 83:23, 84:15, 86:15, 86:20, 87:16, 91:7, 91:25, 92:13, 93:10, 93:12, 96:9, 96:14,	97:2, 97:9, 98:21, 99:7, 99:14, 100:8, 100:19, 101:9, 102:3, 102:6, 102:25, 103:17, 103:21, 103:25, 104:5, 105:19, 106:18, 107:15, 107:18, 107:20 those [15] - 14:12, 19:20, 23:10, 25:24, 30:11, 41:22, 42:6, 51:25, 57:3, 59:22, 68:3, 76:22, 83:6, 83:11, 93:23 thought [1] - 65:24 three [16] - 6:22, 7:7, 10:25, 13:15, 32:5, 32:7, 32:8, 41:23, 41:24, 43:2, 43:3, 48:14, 49:25, 54:2, 69:5 three-day [1] - 41:23 three-story [3] - 43:2, 54:2, 69:5 through [2] - 35:10, 62:7 throughout [3] - 13:5, 13:6, 13:7 thrown [1] - 45:10 tie [5] - 54:13, 54:14, 55:6, 97:22, 102:8 tied [4] - 54:22, 55:4, 97:23, 98:9 tier [2] - 69:5, 69:6 tight [1] - 49:6 time [39] - 4:22, 28:14, 28:20, 33:11, 33:12, 37:10, 38:24, 39:8, 48:2, 49:17, 49:23, 50:13, 50:22, 51:22, 52:14, 52:20, 53:3, 61:25, 63:24, 64:5, 64:11, 69:3, 70:11, 70:19, 71:8, 72:13, 73:2, 84:19, 85:25, 86:19, 87:24, 88:5, 88:25, 89:4, 96:22, 101:17, 102:6, 103:25, 105:10 TIME [2] - 1:18, 2:3 times [8] - 6:14, 19:14, 21:13, 22:11, 56:18, 57:10, 61:9, 61:14 title [4] - 13:11, 13:14, 13:17, 29:2 to [355] - 2:8, 2:9, 4:10, 4:11, 4:21, 4:22, 6:5, 7:11, 7:12, 7:15, 7:16, 7:17, 7:20, 9:18, 11:5, 11:17, 13:17, 13:22, 14:21, 15:3, 15:4, 15:5, 16:17, 16:22, 17:14, 17:20, 18:11, 18:13,	18:14, 18:16, 18:22, 18:23, 18:25, 19:9, 19:21, 21:3, 21:4, 21:7, 21:8, 22:6, 22:7, 22:8, 22:12, 23:6, 23:7, 23:15, 23:19, 23:20, 23:21, 23:22, 24:20, 24:25, 25:4, 25:13, 25:15, 26:4, 26:14, 26:22, 27:3, 27:13, 27:18, 27:22, 27:25, 28:21, 29:10, 29:22, 30:7, 30:10, 30:22, 31:4, 31:24, 32:3, 32:5, 32:7, 32:8, 33:8, 33:13, 33:14, 33:23, 34:8, 35:3, 35:4, 35:11, 35:18, 35:19, 36:17, 37:5, 37:12, 37:15, 37:24, 38:11, 38:20, 39:23, 39:25, 41:4, 41:7, 41:13, 41:14, 43:10, 43:17, 43:21, 44:24, 44:25, 45:5, 45:13, 45:18, 45:19, 47:23, 48:14, 48:15, 48:19, 49:4, 49:12, 49:16, 49:24, 49:25, 50:4, 50:6, 50:12, 51:19, 51:25, 52:4, 52:10, 52:17, 53:6, 53:20, 53:23, 54:2, 54:3, 54:7, 54:14, 54:17, 54:22, 55:5, 55:20, 55:25, 56:5, 56:15, 56:16, 56:19, 56:21, 57:3, 57:17, 58:3, 58:7, 58:11, 58:14, 58:22, 59:5, 59:10, 59:11, 59:13, 59:20, 59:25, 60:25, 61:12, 61:13, 62:3, 62:6, 62:15, 62:16, 62:25, 63:2, 63:9, 63:16, 63:19, 64:5, 64:13, 64:14, 64:16, 64:22, 65:4, 65:8, 65:10, 65:21, 66:2, 66:8, 66:9, 66:18, 66:23, 67:4, 67:12, 67:19, 67:23, 68:4, 68:10, 68:11, 68:14, 69:7, 69:16, 69:21, 70:4, 70:9, 70:20, 71:3, 71:6, 71:12, 71:16, 71:17, 71:21, 73:4, 73:5, 73:7, 73:8, 73:15, 74:2, 74:5, 74:6, 74:7, 74:9, 74:10, 74:11, 74:18, 75:5, 75:14,	76:9, 76:11, 76:12, 76:25, 77:8, 77:21, 77:23, 77:24, 78:3, 78:7, 78:13, 78:24, 82:5, 82:17, 82:21, 83:2, 83:8, 83:12, 83:13, 83:15, 83:18, 83:19, 84:18, 85:3, 85:4, 85:6, 85:14, 85:19, 85:23, 86:3, 86:15, 86:24, 87:4, 87:11, 87:16, 88:25, 89:9, 89:18, 90:11, 90:22, 90:23, 91:5, 91:6, 91:24, 92:3, 92:4, 92:5, 92:10, 92:14, 92:16, 92:17, 92:25, 93:4, 93:7, 93:9, 93:17, 93:25, 94:2, 94:4, 94:14, 94:15, 95:3, 95:5, 95:7, 95:10, 95:14, 95:15, 95:17, 95:21, 95:23, 95:24, 96:3, 96:4, 96:15, 96:21, 97:3, 97:8, 97:9, 97:11, 97:12, 97:13, 97:15, 97:21, 97:22, 98:2, 98:6, 98:18, 98:22, 98:24, 98:25, 99:3, 99:6, 99:8, 99:16, 99:20, 99:23, 100:2, 100:14, 101:10, 102:4, 102:6, 102:8, 105:5, 105:18, 107:15 today [4] - 5:20, 16:19, 76:10, 87:16 together [3] - 14:17, 14:20, 23:15 told [5] - 48:14, 50:4, 69:21, 70:20, 72:6 too [4] - 56:17, 58:11, 84:22, 89:16 took [8] - 9:11, 28:9, 32:9, 50:18, 66:9, 74:8 tool [1] - 54:18 top [6] - 43:9, 55:4, 69:8, 92:5, 93:15, 99:3 total [1] - 41:19 toward [2] - 51:10, 58:6 towns [2] - 18:7, 18:8 township [2] - 24:7, 35:10 training [1] - 11:14 transcribing [1] - 7:11 transcript [2] - 105:9 transferred [1] - 53:25 trial [1] - 4:22 triggers [1] - 31:24 trip [1] - 102:9 truck [1] - 88:18
--	--	---	--

PALACIOS

<p>true [2] - 105:9, 107:12 truth [1] - 105:5 try [3] - 7:11, 35:18, 85:4 turn [3] - 31:5, 78:13, 100:15 Two [2] - 2:11, 3:10 two [10] - 10:10, 13:21, 13:24, 13:25, 33:4, 33:14, 41:24, 42:23, 54:2, 73:11 two-story [2] - 42:23, 54:2 type [4] - 97:2, 98:12, 100:18, 100:20 typically [1] - 100:24</p>	<p>97:4, 97:16, 97:23, 97:24, 98:17, 102:4, 102:6, 102:9, 103:8 upon [1] - 4:17 ups [1] - 89:19 upstairs [1] - 44:24 us [5] - 8:3, 22:16, 31:10, 85:13, 91:11 USA [4] - 1:8, 1:10, 2:6, 3:10 use [7] - 22:11, 22:14, 32:17, 54:3, 55:13, 70:5, 70:9 used [9] - 4:14, 23:17, 51:19, 55:9, 61:14, 90:11, 91:7, 93:3, 95:4 uses [1] - 23:25 using [2] - 92:25, 97:20</p>	<p>29:12, 29:17, 29:22, 30:8, 30:11, 30:23, 30:25, 31:5, 32:21, 32:23, 35:13, 36:24, 37:12, 37:18, 37:24, 39:2, 39:25, 40:18, 41:5, 43:5, 43:6, 43:8, 43:16, 47:25, 48:6, 48:12, 48:13, 48:15, 48:17, 49:5, 49:13, 49:15, 49:21, 50:6, 50:12, 50:17, 51:7, 51:8, 51:9, 51:18, 52:20, 53:19, 53:22, 54:7, 55:18, 56:17, 56:24, 57:21, 57:25, 59:18, 60:8, 63:5, 63:7, 63:10, 63:14, 63:18, 63:25, 64:3, 64:11, 64:18, 64:20, 64:24, 65:11, 65:23, 66:5, 66:7, 66:19, 66:21, 67:5, 67:14, 67:17, 67:19, 67:20, 67:25, 68:12, 68:25, 69:4, 69:6, 70:6, 70:16, 71:8, 71:10, 71:22, 71:24, 71:25, 72:4, 72:6, 72:9, 72:21, 73:10, 74:10, 74:12, 74:15, 74:22, 74:25, 75:5, 75:15, 77:16, 77:21, 79:4, 82:21, 83:6, 83:16, 83:17, 84:5, 84:22, 87:22, 87:24, 88:3, 89:7, 90:15, 92:3, 92:5, 92:11, 92:25, 93:9, 93:21, 95:3, 95:10, 95:13, 95:17, 95:21, 101:24, 102:3, 103:16, 104:5, 107:11</p>	<p>22:13, 25:18, 25:21, 31:9, 32:17, 34:4, 35:20, 47:20, 48:16, 57:24, 58:2, 58:7, 59:13, 59:16, 62:17, 71:15, 74:20, 74:22, 86:25, 89:24, 100:13, 100:14 we'll [10] - 14:18, 18:20, 21:4, 21:5, 22:10, 22:11, 58:2, 58:3, 59:7, 91:24 we're [5] - 11:22, 11:25, 18:22, 79:19, 98:21 wear [3] - 52:10, 55:6, 97:3 wearing [1] - 52:7 weather [1] - 48:15 week [2] - 37:19, 37:22 weekly [1] - 15:7 weeks [2] - 33:14, 73:11 well [9] - 34:11, 45:20, 49:18, 56:20, 71:17, 79:8, 83:14, 87:19, 91:11 went [3] - 29:7, 32:9, 90:22 were [64] - 14:12, 15:5, 15:13, 30:10, 30:24, 33:4, 36:20, 37:15, 38:5, 38:8, 38:11, 38:12, 38:14, 40:13, 42:2, 44:25, 45:4, 45:9, 45:23, 47:2, 47:18, 48:4, 50:21, 50:25, 51:22, 52:7, 52:14, 52:25, 53:17, 53:19, 53:20, 54:2, 54:9, 58:17, 58:23, 59:22, 66:20, 70:12, 70:19, 71:15, 71:16, 73:17, 73:19, 73:22, 74:10, 75:15, 77:4, 79:12, 81:6, 88:22, 88:24, 89:8, 92:2, 93:2, 94:11, 94:15, 96:21, 97:3, 97:7, 99:5, 99:9, 99:14, 102:6 were you [10] - 12:12, 13:20, 22:17, 28:14, 38:4, 42:9, 75:11, 76:11, 88:11, 96:9 Westchester [5] - 11:24, 24:20, 39:3, 39:4, 64:2 what [51] - 8:15, 9:4, 10:12, 11:10, 14:7, 17:3, 17:23, 18:4, 18:19, 22:16, 23:13, 37:2, 39:23, 43:5, 43:23, 44:3, 47:21,</p>
<p>U</p> <p>U [1] - 4:2 uh [5] - 41:17, 43:4, 57:19, 63:3, 80:9 uh-huh [5] - 41:17, 43:4, 57:19, 63:3, 80:9 ultimately [1] - 75:9 under [3] - 72:21, 78:16, 93:23 understand [9] - 60:3, 60:5, 78:7, 78:24, 79:4, 90:2, 90:5, 90:7, 98:4 understanding [20] - 27:21, 29:12, 29:16, 30:10, 37:12, 53:21, 55:13, 58:13, 67:18, 68:24, 75:14, 80:14, 84:4, 84:16, 85:10, 86:7, 87:21, 88:2, 102:8, 103:15 understood [2] - 7:24, 99:11 underway [1] - 48:12 unforeseen [5] - 48:17, 56:2, 56:7, 56:25, 58:24 uniform [1] - 47:12 UNITED [1] - 1:2 unlikely [2] - 101:11, 101:15 unsafe [2] - 53:2, 53:6 unsafely [1] - 86:17 unsigned [1] - 4:14 until [1] - 72:22 up [38] - 11:7, 11:14, 21:23, 23:22, 30:3, 44:24, 45:5, 45:21, 59:20, 66:20, 66:22, 69:6, 72:20, 74:18, 74:21, 76:21, 87:6, 87:18, 91:13, 92:4, 92:16, 92:17, 94:2, 94:4, 94:10, 94:12, 94:16, 94:20, 94:21,</p>	<p>V</p> <p>valid [2] - 9:24, 10:3 various [1] - 20:5 vent [1] - 29:25 ventilation [4] - 30:2, 44:7, 44:8, 59:12 ventilations [1] - 44:6 verbal [1] - 7:12 verbally [1] - 42:15 vest [5] - 47:14, 52:4, 52:7, 52:11, 52:13 via [1] - 17:22 vicinity [1] - 72:18 view [2] - 22:19, 22:23 visit [3] - 90:25, 96:8, 96:15 visited [1] - 88:8 visiting [1] - 39:12</p>	<p>W</p> <p>waited [2] - 29:9, 66:8 waiting [2] - 71:15, 74:10 waived [1] - 4:9 walk [3] - 51:10, 62:12 walk-around [1] - 62:12 walked [1] - 54:11 walking [4] - 93:15, 94:10, 94:12, 94:16 walls [2] - 44:19 want [4] - 7:14, 18:22, 64:12, 77:24 wanted [1] - 73:14 warranty [1] - 12:22 was [151] - 5:4, 5:18, 9:13, 9:15, 10:10, 11:9, 11:10, 12:14, 13:4, 13:9, 13:24, 14:9, 15:7, 26:2, 26:18, 27:7, 28:2, 28:10, 28:17, 29:6,</p>	<p>was it [11] - 34:25, 35:6, 35:13, 46:14, 49:7, 51:6, 68:11, 75:8, 81:9, 88:2, 97:2 was that [9] - 6:19, 6:24, 6:25, 13:3, 32:25, 43:13, 46:5, 87:9, 94:14 was there [4] - 57:11, 76:14, 95:2, 95:9 waste [3] - 22:13, 22:15, 32:18 water [3] - 29:24, 44:11, 44:21 way [8] - 25:9, 42:10, 42:16, 42:24, 45:5, 57:5, 91:5, 107:17 WCI [1] - 12:19 we [31] - 7:10, 8:4, 18:6, 20:24, 21:7, 22:6, 22:7,</p>

PALACIOS

<p>48:5, 48:24, 53:19, 54:16, 56:6, 56:14, 57:3, 57:6, 58:16, 59:9, 60:5, 60:15, 61:4, 61:10, 62:8, 62:17, 64:11, 66:15, 67:25, 69:20, 70:2, 70:25, 71:12, 73:6, 74:14, 78:7, 79:19, 80:15, 80:19, 82:20, 82:23, 83:11, 90:24, 91:23, 91:24, 93:11, 97:19, 97:21, 98:5, 100:12, 100:18</p> <p>what are [1] - 15:18</p> <p>what did [4] - 12:24, 48:22, 66:17, 74:6</p> <p>What is [14] - 5:11, 6:2, 8:10, 13:11, 18:14, 22:9, 36:8, 44:9, 59:7, 80:14, 85:10, 90:14, 98:6, 100:17</p> <p>what was [13] - 13:17, 29:2, 29:4, 29:20, 34:25, 35:17, 39:16, 64:14, 65:18, 73:4, 75:25, 76:2, 92:8</p> <p>what were [4] - 12:20, 14:2, 14:25, 50:24</p> <p>whatever [2] - 14:9, 15:4</p> <p>when [24] - 6:19, 17:16, 22:3, 22:6, 23:11, 26:25, 28:9, 30:24, 33:13, 38:5, 39:25, 45:8, 51:18, 54:11, 56:12, 56:21, 58:14, 59:3, 71:24, 73:5, 75:11, 99:13, 99:14</p> <p>when did [8] - 9:16, 10:8, 11:7, 47:5, 51:15, 63:4</p> <p>when you [37] - 10:19, 12:9, 16:12, 16:14, 19:3, 19:20, 24:6, 33:12, 33:16, 33:20, 39:10, 47:12, 47:17, 48:19, 49:7, 50:4, 50:21, 52:25, 53:19, 54:10, 55:24, 58:17, 58:20, 65:10, 67:16, 68:6, 71:25, 74:6, 75:19, 88:8, 88:11, 88:21, 90:11, 90:22, 93:15, 96:3, 96:21</p> <p>where [25] - 25:10, 27:7, 27:11, 36:23, 37:15, 38:7, 40:2, 40:3, 42:4, 44:19, 45:16, 45:24, 58:4, 67:23, 72:18, 75:2, 79:7, 80:11, 83:5, 92:5, 92:13, 95:23,</p>	<p>95:24, 98:23, 101:4</p> <p>where are [2] - 16:9, 16:11</p> <p>where is [1] - 36:5</p> <p>where was [2] - 12:16, 71:10</p> <p>where were [1] - 63:24</p> <p>WHEREOF [1] - 107:19</p> <p>Whereupon [9] - 30:7, 49:12, 55:17, 67:4, 71:21, 77:15, 92:10, 101:23, 104:4</p> <p>wherever [1] - 95:6</p> <p>whether [1] - 9:13</p> <p>which [17] - 7:4, 12:18, 27:5, 44:12, 58:15, 62:18, 72:17, 76:5, 79:18, 79:19, 80:4, 81:6, 81:16, 82:12, 86:23, 93:18, 95:21</p> <p>while [7] - 21:11, 69:2, 69:17, 70:16, 76:21, 94:11, 97:3</p> <p>who [21] - 17:13, 18:6, 19:16, 20:2, 22:20, 31:15, 34:2, 34:5, 34:14, 35:25, 40:9, 45:21, 50:18, 63:21, 71:11, 71:14, 71:18, 79:25, 87:22, 101:7</p> <p>who is [2] - 15:25, 78:22</p> <p>who was [6] - 28:24, 33:22, 34:18, 63:20, 67:8, 67:11</p> <p>who were [1] - 99:23</p> <p>whoever [1] - 97:15</p> <p>whose [1] - 107:10</p> <p>why [9] - 27:22, 51:3, 51:6, 63:15, 68:25, 69:23, 72:9, 84:25, 85:3</p> <p>width [2] - 22:11, 32:17</p> <p>will [33] - 7:8, 7:9, 14:19, 22:3, 22:15, 23:17, 27:3, 39:16, 56:23, 62:10, 62:11, 72:22, 73:5, 73:6, 74:12, 78:11, 80:20, 82:23, 83:20, 85:13, 87:6, 87:17, 87:18, 90:3, 91:11, 94:17, 95:24, 97:16, 97:20, 98:14, 99:3, 101:6, 103:8</p> <p>willing [1] - 21:8</p> <p>window [2] - 43:8, 43:11</p> <p>windows [3] - 14:10, 17:6, 26:10</p> <p>WINOGRAD [1] - 3:4</p> <p>wire [4] - 66:23, 66:25, 67:18, 67:19</p> <p>wires [4] - 68:3, 68:12,</p>	<p>68:17, 68:20</p> <p>with [103] - 4:12, 4:15, 5:18, 6:11, 7:4, 10:15, 10:18, 10:22, 10:23, 10:24, 11:2, 11:3, 11:7, 11:14, 16:24, 18:7, 19:2, 19:4, 19:6, 19:17, 20:3, 20:8, 20:18, 21:9, 23:18, 23:20, 24:14, 24:16, 28:2, 28:4, 29:5, 29:14, 30:19, 34:14, 35:25, 36:14, 38:15, 38:21, 42:7, 43:20, 44:11, 47:22, 48:9, 48:20, 48:21, 49:4, 49:7, 53:15, 53:18, 54:19, 55:23, 57:10, 57:12, 57:21, 62:10, 63:12, 63:23, 64:4, 64:8, 64:12, 64:19, 65:7, 65:11, 65:13, 65:19, 65:25, 66:22, 67:17, 68:7, 69:10, 71:5, 71:13, 72:14, 72:25, 73:2, 73:22, 74:18, 76:10, 76:15, 78:17, 79:12, 80:2, 81:23, 83:7, 83:8, 83:12, 86:8, 86:12, 87:6, 88:8, 88:11, 89:7, 89:23, 91:14, 95:25, 97:2, 100:8, 100:17, 100:21, 102:18, 103:9, 103:20</p> <p>within [5] - 4:8, 24:13, 84:7, 85:24, 107:8</p> <p>WITNESS [2] - 41:20, 107:19</p> <p>witness [8] - 2:7, 4:10, 4:16, 4:18, 5:3, 104:5, 107:10, 107:13</p> <p>witnesses [1] - 101:5</p> <p>wood [3] - 43:21, 44:2, 56:8</p> <p>work [95] - 10:16, 11:6, 12:13, 12:24, 19:2, 19:6, 20:4, 21:2, 23:6, 23:16, 25:4, 25:15, 25:22, 26:4, 26:22, 27:13, 27:18, 29:20, 29:22, 30:11, 32:4, 33:13, 35:4, 35:14, 35:16, 35:19, 36:2, 36:11, 37:6, 42:11, 42:17, 46:3, 46:10, 46:16, 46:19, 46:23, 49:16, 49:24, 52:20, 52:23, 53:17, 54:5, 54:8, 56:23, 57:7, 57:18, 57:22, 58:3,</p>	<p>58:8, 58:11, 58:24, 59:4, 59:18, 59:20, 61:13, 67:20, 72:7, 75:6, 75:15, 77:8, 80:12, 80:15, 80:16, 80:18, 81:5, 81:11, 81:17, 81:18, 81:21, 81:25, 82:10, 82:13, 82:16, 83:7, 83:12, 83:14, 84:18, 84:22, 85:24, 86:20, 86:25, 87:3, 87:10, 87:23, 88:4, 88:21, 88:24, 89:7, 91:3, 91:19, 92:5, 97:2, 99:10, 103:17</p> <p>Work [1] - 106:18</p> <p>worked [11] - 10:22, 11:2, 12:9, 25:20, 42:2, 57:9, 59:3, 64:17, 69:10, 73:21, 76:19</p> <p>worker [4] - 55:3, 69:15, 99:19, 102:3</p> <p>workers [7] - 51:25, 52:9, 94:10, 95:4, 99:13, 99:14, 99:23</p> <p>working [15] - 8:24, 10:15, 10:21, 22:17, 27:10, 31:7, 37:9, 49:21, 50:21, 51:22, 53:10, 54:21, 55:4, 82:18, 94:18</p> <p>World [2] - 2:11, 3:10</p> <p>would [79] - 22:19, 24:8, 27:25, 29:11, 29:13, 30:19, 42:22, 42:25, 45:25, 46:15, 46:18, 46:22, 48:24, 52:4, 54:14, 55:3, 55:5, 56:6, 56:16, 57:2, 57:6, 57:7, 57:20, 57:23, 59:4, 59:19, 63:19, 65:21, 65:24, 68:2, 69:17, 69:20, 70:20, 76:5, 81:5, 81:10, 81:17, 82:13, 82:15, 82:17, 82:20, 82:25, 83:10, 84:17, 84:22, 84:25, 86:23, 89:8, 90:24, 90:25, 91:18, 92:15, 92:20, 93:5, 93:6, 93:8, 93:24, 94:6, 94:7, 96:5, 97:6, 97:10, 98:5, 98:7, 98:20, 98:22, 99:8, 99:9, 99:14, 99:16, 99:19, 99:22, 99:25, 101:9, 101:11, 101:14, 101:15, 102:8</p> <p>wouldn't [4] - 58:4, 92:22, 101:18, 102:10</p> <p>wrapped [1] - 38:14</p>
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PALACIOS

<p>writing [3] - 42:15, 87:14, 87:18</p> <p>written [2] - 46:5, 78:20</p>	<p>91:8, 96:7, 96:11, 96:19, 97:5, 100:4, 100:9, 101:7, 102:23, 103:4, 103:7, 103:14, 103:18</p> <p>Yes [10] - 6:13, 25:6, 28:13, 31:20, 57:5, 63:3, 68:16, 69:4, 72:16, 78:6</p> <p>yet [1] - 10:7</p> <p>Yonkers [10] - 28:6, 28:17, 29:18, 36:20, 37:3, 39:3, 42:4, 72:19, 77:8, 81:7</p> <p>York [16] - 2:12, 2:13, 2:14, 3:6, 3:11, 3:16, 5:4, 5:13, 8:8, 13:7, 24:13, 24:17, 28:6, 107:9</p> <p>YORK [2] - 1:2, 107:4</p> <p>you [185] - 6:17, 6:21, 7:6, 7:8, 7:14, 7:16, 7:19, 7:23, 7:24, 8:6, 8:14, 8:15, 8:17, 8:21, 9:11, 9:16, 10:8, 10:20, 11:7, 11:17, 12:5, 12:10, 15:9, 15:13, 15:15, 16:6, 16:9, 16:11, 17:14, 17:21, 17:24, 18:16, 19:11, 20:14, 21:10, 21:16, 21:24, 22:4, 22:5, 22:19, 23:5, 23:9, 23:21, 25:15, 26:4, 26:6, 26:16, 27:24, 28:4, 28:21, 30:22, 31:4, 31:7, 31:12, 31:25, 32:9, 32:12, 32:14, 32:15, 32:19, 32:25, 33:15, 33:19, 34:14, 34:23, 35:2, 39:10, 39:12, 39:16, 42:14, 42:20, 42:21, 42:22, 43:10, 46:4, 46:16, 46:20, 46:24, 47:5, 48:4, 48:10, 49:20, 50:16, 51:10, 51:15, 52:14, 52:22, 52:23, 53:5, 54:9, 55:3, 55:5, 55:20, 55:23, 56:8, 56:12, 56:22, 57:2, 57:12, 57:20, 58:21, 59:4, 59:17, 59:19, 60:2, 60:3, 63:4, 63:15, 63:24, 64:14, 64:15, 65:4, 65:7, 65:11, 65:19, 66:18, 67:7, 67:24, 68:3, 68:7, 69:11, 69:15, 69:16, 69:18, 69:20, 70:12,</p>	<p>70:14, 70:15, 70:19, 70:20, 70:25, 71:20, 72:4, 73:12, 73:25, 74:6, 77:24, 77:25, 78:13, 81:23, 83:7, 84:23, 86:16, 86:20, 87:2, 87:3, 88:20, 89:6, 89:8, 90:2, 90:4, 90:11, 90:24, 90:25, 91:6, 92:13, 93:14, 93:16, 93:17, 93:20, 94:15, 96:4, 96:5, 97:3, 97:6, 97:7, 97:10, 98:5, 98:23, 99:5, 99:9, 99:12, 101:3, 101:6, 101:10, 101:11, 101:21, 103:24</p> <p>you'd [1] - 42:24</p> <p>you'll [1] - 23:14</p> <p>you're [1] - 6:11</p> <p>you've [2] - 21:11, 100:19</p> <p>young [1] - 48:6</p> <p>your [49] - 5:8, 5:11, 5:21, 6:2, 6:24, 7:12, 8:17, 10:16, 12:20, 13:11, 13:13, 13:17, 14:2, 14:21, 14:25, 15:18, 16:22, 19:8, 21:17, 25:7, 28:17, 29:4, 29:11, 29:16, 30:10, 31:5, 33:16, 33:20, 37:12, 46:14, 50:12, 53:20, 55:13, 62:4, 75:14, 76:11, 77:22, 80:14, 85:10, 86:7, 87:13, 88:2, 88:25, 90:23, 96:8, 96:15, 96:25, 98:9, 103:9</p> <p>yourself [2] - 42:14, 57:2</p>
		<p>° [4] - 104:8</p>

Diamond Errata Sheet

Plaintiff(s): _____

Defendant(s): _____

[illegible]

Date: _____

Name of Witness:

Signature:

Subscribed and sworn to before me

This _____ of _____ 20____.

Notary Public